

# JUDAISM

**Drinking on Purim: When to Say When?**

*Daniel Alder*

***Korbanot: Recovering Our Spiritual Vocabulary***

*Ira F. Stone*

**Further on Women's Hair Covering: An Exchange**

*Michael J. Broyde, Lilli Krakowski and Marc Shapiro*

***'Am K'shei Oref': Oppositionism in the Jewish Heritage***

*Sam Lehman-Wilzig*

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STATEMENT OF PURPOSE

In increasing measure, modern men are turning again to the quest for a worldview on the issues that are timeless — the meaning of life, the challenge of death, the purpose of suffering, the significance of the individual, his relation to society, and the goal of history. In order to advance this enterprise of spiritual discovery of our time this Journal has been projected. It will be primarily concerned with the philosophy, ethics, and religion of Judaism as a factor in the contemporary world . . .

We are committed to the proposition that Judaism has positive value today for Jews and for the world . . . At the same time, we disassociate ourselves from the dangerous tendency toward the hardening of party lines on the contemporary Jewish scene . . . The members of the Board of Editors belong to every school of Jewish life or to none. The trends popularly referred to as Orthodox, Conservatism, Reform, Reconstructionism, as well as others that as yet have no specific names, have their advocates among us, though no institution or movement is officially represented . . . Undoubtedly, our differences will find expression in these pages, but we shall be at one in opposing the dogmatism which takes for granted that one's own particular standpoint has a monopoly on truth and the authoritarianism which would suppress any contrary point of view.

*Judaism* will be dedicated to the quest for truth in the spirit of freedom. Our columns will be open to anyone who has something significant to say and the ability to say it well. New and unconventional interpretations, whatever their standpoint, will be welcomed from every source, for we share the conviction of the Talmud that "Both these and the others are the words of the living God." *From the introductory article by Robert Gordis, "Toward a Renaissance of Judaism" in Vol. I, No. 1.*

## *The First Reader*

### *A Guide for Purim*

How much is enough? When it comes to drinking on Purim, the Talmudic injunction is that one should imbibe until it is impossible to tell the difference between “Cursed be Haman” and “Blessed be Mordecai.” This seems like an invitation for Jews to become early candidates for Alcoholics Anonymous, but it only seems so. The scholars of the Talmud proceeded to interpret the injunction — offering all kinds of interpretations to minimize the possible excesses so that, really, all of the drinking to celebrate the joy of Purim was kept within the realm of propriety. “Drinking on Purim: When to Say When?” by *Daniel Alder*, is an enlightening, though sober, discussion of an intoxicating (within bounds) subject.

### *The Stiff-Necked People*

The conventional notion of the Jews — until recently — has been of a fairly docile people following the dictates of their temporal and religious leaders. But convention is not always right. *Sam Lehman-Wilzig* points out that “being against” is part of the Jewish tradition. Jews, he maintains, have been argumentative, protesting, disobedient, and rebellious. The Torah lists over fifty instances of such behavior, and the author cites instances which continue to this very day. Certainly, the current political situation in Israel is an outstanding example of oppositionism. “*Am K’shei Oref*: Oppositionism in the Jewish Heritage” helps to establish the reason why Jews were cited in the Bible as a “stiff-necked people.”

### *Variations on a Jewish Joke*

One would hardly expect humor to cast light on theological attitudes, but *Richard Raskin* shows how it does in “God Versus Man in a Classic Jewish Joke.” In all the versions of the joke, a Jewish tailor turns out to be a better creator of his handiwork than God is of His world. The joke was originally printed in Paris in 1925, and then quickly spread around the world, being reprinted, with variations, in numerous anthologies, though none, the author maintains, surpasses the original. If there are sermons in stones, then certainly one can find “God-talk” in some examples of humor.



“How does one draw close to God?” That is the opening sentence of a paper by *Ira F. Stone* entitled, “*Korbanot*: Recovering our Spiritual Vocabulary.” *Korbanot* are sacrifices and, says the author, in the days of the Temple they helped Jews to achieve a closeness to God in such areas as atonement, thanksgiving, and deeds of lovingkindness. There is not here a suggestion that we return to the actual practice of sacrifices as in ancient days, but that we return to its vocabulary in certain formal, experiential ways, and the concepts behind it. That would involve a grappling with ideas, with the questions of life and death. Reason and emotion would intermingle; study would be essential. But, without them, the author maintains, our contemporary liturgy will lose its ability to speak to us and for us.

### *Literary Forgery*

One of the great developments of the 19th century was the expansion of printing and the ready availability of books at a reasonable price. At the same time, Jewish scholarship adopted the critical standards of the Western world, applied them to Jewish texts, and put out new editions of the classics. The Orthodox followed suit, and the result was a *kulturkampf* that led, in some instances, to the creation of false documents. *Ira Robinson* offers us a case study of one man who set out to fight the threats of secularism by “discovering” manuscripts and manufacturing credentials for them. “Literary Forgery and Hasidic Judaism: The Case of Yudel Rosenberg,” shows how Rosenberg’s works were avidly accepted by a willing audience for whom he was a kind of spokesman. The “willing suspension of disbelief,” that Wordsworth said should be applied to poetry, was here shown by the Hasidic community which bought out numerous editions of Rosenberg’s works.

### *Women’s Hair Covering Continued*

“Letters to the Editor” are always a gratifying sign of interested readers. Some years ago we printed an article by Dr. Robert Gordis on mixed seating as an example of “*minhag* America.” We promptly thereafter received an article by *Marc Shapiro* pointing out another such *minhag* — the abandonment of head coverings by married women. After we printed it we quickly got two reactions to that, one by *Lilli Krakowski* and another, a lengthy article by *Michael J. Broyde*. Apparently, what women put on their heads is intriguing, so we decided to combine both of these reactions along with Mr. Shapiro’s reply to them, and present them as a three-part exchange in which every writer has something cogent to say.

*Of the Making of Prayer Books . . .*

The proliferation of prayer books in recent years might lead one to ask what distinguishes one from the other. In "Ethics and the Liturgy of Conservative Judaism," *Jeffrey Rubinstein* analyzes six of the major Conservative prayer books that have come out in the last generation or so, and shows how each has handled questions which are of contemporary ethical concern, as, for example, the status of women, the place of the sacrifices, the view of God: is He warlike? is He vindictive? does He make peace? and more. Some prayer books solve their problems by leaving the Hebrew text but omitting an English translation; others change the translation to fit today's sensitivities, though they do not touch the Hebrew; while others actually change the Hebrew text to accomodate to those sensitivities. "Relevance" is a much overused word, but it is the operative one here. The various Conservative prayer books are the products of their time.

R.B.W.

A *Festschrift* in Honor  
of  
**Dr. Robert Gordis**  
is planned for Oct. 1991  
Colleagues, Students, and Admirers  
are invited to submit papers  
before Mar. 31, 1991

# *Drinking on Purim: When To Say When?*

DANIEL ALDER

WE ARE NOT INFORMED OF THE TYPE OF fruit that grew on the Tree of Knowledge of Good and Evil and that ultimately led to the expulsion from the Garden of Eden. But we are aware that the grape — particularly, the fermented grape — has long been the choice of those who sought to return to such a blissful state of paradise. The power of wine, when drunk in moderation, to stimulate and symbolize joy, has long been recognized and employed by the Jewish tradition. That is surely one of the reasons why it is used in the *Kiddush* prayers sanctifying the Sabbath and holidays.

However, when drunk in excess, to a state of intoxication, alcohol removes the celebrant from the religious significance of the occasion, and often results in behavior inimical to the Jewish moral code of conduct. How astonishing it is to learn, then, of a Talmudic statement requiring a Jew to reach an advanced state of drunkenness on the holiday of Purim. How this law was analysed and modified by later commentators on the Talmud offers insight into the practice and ingenuity of halakhic interpretation as well as into the traditional Jewish views on wine, revelry, and escapism.

The single Talmudic source for the injunction to drink heavily on Purim appears in tractate *Megillah* of the Babylonian Talmud. It includes both the statement by Rava as well as the story that immediately follows it:

Rava said: A man is obligated to become drunk on Purim until he can no longer distinguish between “Cursed be Haman” and “Blessed be Mordecai.”

Rabbah and R. Zeira joined together for the Purim feast. They became drunk, and Rabbah went and cut R. Zeira’s throat. The next day, Rabbah prayed [to God on his behalf] and revived [R. Zeira]. The following year [Rabbah] said to him: “Will you, [R. Zeira] come and we will have the Purim feast together?” [R. Zeira] replied: “A miracle may not happen every time!”<sup>1</sup>

The questions that arise from this source are numerous, and many later commentators both raised these difficulties and attempted to furnish explanations. What is the force of “a man is *obligated* to become drunk”? Are we dealing here with an outright commandment to get drunk? How are we to determine the limits of drink based on the am-

1. *Megillah* 7b.

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biguous phrase “*until* he can no longer distinguish?” What is the origin of the “litmus-test” of drunkenness, the ability to distinguish between “Cursed be Haman” and “Blessed be Mordecai,” and why was it chosen? And, finally, how are we to understand the outrageous story that follows, and its implications for Rava’s statement? Beginning with this last question and working our way back to the first, we will encounter the varied attempts of commentators to come to terms with the statement by limiting the excesses of drink in the context of religious joy.

It is appropriate, however, to deal first with that stream of thought that took the statement of Rava at face value. The *Rif* (R. Isaac Alfasi, 1031-1103) quotes the statement verbatim, while the *Tur* and the *Shulḥan Arukh* (authoritative codes of halakhah of Rabbi Jacob ben Asher, 1270-1340, and Rabbi Joseph Caro, 1488-1575, respectively) paraphrase the statement without elaboration.<sup>2</sup> What, then, was the intention of these great halakhic interpreters? Did they understand the obligation of drunkenness literally and thus have no need for comment, or were they simply evading the issue by not dealing with it?

Certainly, either of these two possibilities is problematic. A literal understanding of the statement is untenable, given the vast majority of commentators who could not come to terms with a requirement of drunkenness. On the other hand, by evading the issue, they leave the terms of Rava’s statement undefined, and the practicing Jewish world without guidance.<sup>3</sup> Given the accepted deleterious consequences of being in an intoxicated state, other commentators throughout the generations have sought to show that the literal understanding of the statement is not the correct one.

### *Learning From Experience*

One of the earliest attempts to uproot the literal intent of Rava’s statement was made by Rabbenu Ephraim, a student of the *Rif*, who held that the statement could be understood only in the context of the story that follows and that delimits it. However, a controversy arose over exactly how this limitation is effected, based on the variant textual readings of the statement.

The first of the early commentators to cite the opinion of R. Ephraim is the *Sefer HaEshkol* by Abraham ben Isaac of Narbonne in the twelfth century:

R. Ephraim wrote: “Since the story is brought — [namely that] *Rabbah* went and cut R. Zeira’s throat because they were drunk, and the next

2. See *Rif*, *Hilkhot Rabbati* to *Megillah* 7b; also the *Tur*, *Orah Hayyim* (O.H.) 695 and *Shulḥan Arukh* 695:2.

3. *Arukh HaShulḥan* (a work of novellae and halakhah by the 19th century halakhist Yeḥiel Michel Epstein) expresses his surprise at this lack of forthrightness, and openly questions Joseph Caro for reviling drunkenness in his *Beit Yosef* but seeming to support it in his *Shulḥan Arukh*. See *Arukh HaShulḥan O.H.* 695.

year when he said to him, 'Let us have the Purim [feast] together,' R. Zeira responded, 'a miracle may not happen every time' — it follows that this statement [that one should become drunk on Purim] of *Rabbah* is rejected. And it is correct that this should be so." (Emphasis added.)<sup>4</sup>

It appears that R. Ephraim had a variant reading that uses the name "Rabbah" not only for the story but also for the initial statement (which the Talmud has as "Rava").<sup>5</sup> The thrust of R. Ephraim's opinion is that the deliberate placement of the near-tragic story directly after such a reckless statement, serves to prove that Rabbah recanted his statement. For how could such a story of a man, following his own advice and thereby almost murdering his colleague, not come to teach us to disregard his earlier errant suggestion?

The weakness of this understanding of R. Ephraim is immediately indicated by the *Sefer HaEshkol*, who comments:

And it seems to me that [on the contrary] this provides proof that one must get drunk! For if not, [Rabbah] should have said "Let us have the Purim feast together and *not* drink." (Emphasis added.)<sup>6</sup>

The opinion of R. Ephraim more likely simply describes the intention of the redactor of the Talmud, who deliberately placed the story immediately after the statement. In so doing, he wished to show the inappropriateness of adhering to the statement (whatever the variant readings of "Rava" and "Rabbah") if even such great rabbinic figures would thereby be led to frivolity and worse. In just this sense does the *Bakh* (Rabbi Joel Sirkes, a Polish halakhist, 1561-1640) understand R. Ephraim:

And it appears that for this reason the redactor of the Talmud arranged this story of Rabbah and R. Zeira after the statement of Rava: that this statement of Rava was the law but that it should be cancelled.<sup>7</sup>

### *Cursed Be Haman and Blessed Be Mordecai*

Turning to the statement itself, other commentators sought to limit the apparent call to drunkenness by rendering a less radical understanding of what it means to enter a state of no longer distinguishing between "Cursed be Haman" and "Blessed be Mordecai." The amount of drinking required to reach such a state would appear to be very great, indeed. However, an examination of the origin, meaning and numerical equivalent of this phrase reveals several possible interpretations of a less literal nature.

The *Tosafot* (classic 11th-12th century French rabbinic commenta-

4. Quoted in *Sefer HaEshkol* (Auerbach edition), *Hilkhos* Hanukkah and Purim, 8.

5. See the readings in *Dikdukei Soferim*, the Me'iri and *Shibolei HaLekei*, where the reading is "Rava" in both places. See also the *Ran* (Rabbi Nissim Gerondi, a 14th century Spanish talmudist).

6. *Sefer HaEshkol*, *Hilkhos* Hanukkah and Purim, 8.

7. *Bakh* to *O.H.* 695.

tors on the Talmud) cite what appears to be the more complete original version of this phrase, allegedly found in the Jerusalem Talmud:

[Until] he can no longer distinguish between “Cursed be Haman” and “Blessed be Mordecai”, “Cursed be Zeresh” and “Blessed be Esther”, “Cursed be all the evil doers” and “Blessed be all the Jews” (or “all the righteous ones”)<sup>8</sup>

The Me’iri (a classic 13th century French commentator on Scripture and Talmud) remarks that it is this longer phrase, including the final exclamation, “May Harbonah be remembered for good”, that must be recited upon the completion of the Megillah reading.<sup>9</sup> And the *Beit Yosef* of Rabbi Joseph Caro (the elaborate code of halakhah, a commentary on the Tur, that was the foundation for the *Shulhan Arukh*) points out that if the test of drunkenness was the inability to distinguish solely between “Cursed be Haman” and “Blessed be Mordecai” then even one who had drunk much would not err in its recitation.<sup>10</sup> But the longer statement, which Rava merely abbreviated in the Babylonian Talmud, requires a much lesser state of drunkenness to reach the point of “no longer distinguishing.”

Moreover, there is a tradition that the lengthier rendition of the phrase formed a song (or *piyyut*) that was recited responsively and in prescribed sequence. The *Sefer HaEshkol* explains:

The ancients had a song, and, at the completion of the verses, said one time: “Blessed be Mordecai” and once “Cursed be Haman.” One time “Blessed be Esther” and once “Cursed be Zeresh.” And anyone whose mind was not completely clear could easily confuse the verses.<sup>11</sup>

This back-and-forth refrain would again require greater skill in speech than would the shorter phrase found in the Babylonian Talmud and, therefore, a lower threshold of drunkenness.

Maimonides’ conceptual approach to limiting the required degree of drunkenness is both unique and radical. He offers no precedent or explanation for his succinct opinion:

How does one fulfill the obligation of this [Purim] feast? One eats meat and prepares a beautiful meal as best he can. And he drinks wine until he becomes drunk and falls asleep in his drunkenness.<sup>12</sup>

Maimonides appears to suggest reaching just such a drunken state that causes drowsiness and puts the celebrant to sleep. He leaves it up to

8. *Tosafot* to *T.B. Megillah* 7b s.v. “*De-lo yada*.” Although attributed to the “Yerushalmi,” the Talmud Yerushalmi does not contain the cited passage, so that the Tosafists may have been referring to a no longer extant variant reading or else to a “*Sefer Yerushalmi*.” See *Ahavat Zion Viyerushalayim* for variant readings.

9. Me’iri, *Beit HaBehirah* to *Megillah* 7b.

10. *Beit Yosef*, *O.H.* 695.

11. *Sefer HaEshkol*, *Halakhot Hannukah and Purim*, 8.

12. *Mishneh Torah*, *Halakhot Megillah* 2:15.

later commentators to determine how this recommendation accords with Rava's statement.

One approach, promulgated by the great 16th century Ashkenazi halakhist, Moses Isserles, holds that the Rambam's explanation of "until he sleeps" refers directly to the phrase "until he can no longer distinguish between 'Cursed be Haman' and 'Blessed be Mordecai'":

Some hold the opinion that there is no need to become very drunk; simply that one drink just beyond what he is accustomed to . . . and fall asleep; and in as much as he is sleeping, he is unable to distinguish between "Cursed be Haman" and "Blessed be Mordecai."<sup>13</sup>

This line of interpretation understands that the Rambam was offering a sedate, two-step path to the safe fulfillment of the obligation of the Talmudic statement. The celebrant would imbibe sufficiently until overtaken by drowsiness. Then, upon falling asleep, he would fulfill the second half of the injunction; for, in a state of sleep, he would not be able to distinguish between "Cursed be Haman" and "Blessed be Mordecai."

The second line of reasoning divorces the Rambam's words from any connection with the second half of Rava's statement.<sup>14</sup> Indeed, the Rambam himself does not relate his statement to the Talmudic dictum at all, but simply calls for a man to drink himself into a state of sleep. Thus, some see the Rambam as purposefully avoiding the language of the Talmud in order to cancel it and replace it with his own opinion.<sup>15</sup>

Either understanding of the Rambam's statement brings to the fore a common intent: to require drinking in such moderation as would prevent the outbreak of unruly behavior. This would accord with the Rambam's opinion of what constitutes a proper "day of feasting and joy."<sup>16</sup>

A final attempt to define the intent of "between 'Cursed be Haman' and 'Blessed be Mordecai'" examines the simple, yet intriguing realm of numerology (*gematria*). The *Agudah* (Alexander Suslin Hakohen of Frankfurt) was the first to point out, in the 14th century, that the numerical equivalent of the Hebrew letters of "Cursed be Haman" and the letters of "Blessed be Mordecai" both add up to exactly the same sum of 502.<sup>17</sup> While, in general, we may be dubious of interpretations that rely on numerical equivalents of words, it appears not wholly coincidental that these two word groups should precisely equal the same number.

This arithmetic offers a significant new interpretation to the phrase, "until he can no longer distinguish . . ." It can now be explained as,

13. Gloss to *Shulhan Arukh O.H.* 695.

14. See *Match Moshe* 5:1012 and *Nimukei Yosef to Megillah* 7b for proponents of this view.

15. See *Arukh HaShulhan O.H.* 695:3.

16. Rambam, quoted in *Nimukei Yosef to Megillah* 7b.

17. *HaAgudah to Megillah, Nikrait* 7.

“until he can no longer distinguish between [i.e. compute the sum of each of the two word groups] ‘Cursed be Haman’ and ‘Blessed be Mordecai’”; so that one who is even only slightly inebriated could easily err in the arithmetical computation. What we have, then, is yet another interpretation that would lower the amount of alcohol consumption necessary to meet the requirements of the Talmudic “litmus-test” of drunkenness.

*Until . . .*

Another line of interpretation chooses to focus on the quantitative term “until” of Rava’s (or Rabbah’s) statement as a way of limiting drunkenness. A number of commentators pick up on the elasticity of the term to point out that the Hebrew statement employs the word “*ad*”, which can mean “until” in the sense of “up to,” and *not* “until inclusive.”<sup>18</sup> In other words, one should drink *up to* (“until”) the point of sufficient inebriation but not *into* it or *beyond* it. This understanding of Rava’s statement would seem to leave open the option of imbibing on Purim anywhere on the scale between complete sobriety and the beginning effects of intoxication.

The *Magen David* (David ben Samuel Halevi, 1586-1667), however, offers an interpretation of “until” that would allow entering into a state of drunkenness.<sup>19</sup> He begins with a conceptual approach that sees “Cursed be Haman” and “Blessed be Mordecai” as referring to the two major miracles of Purim: the downfall of Haman and the ascendancy of Mordecai. The phrase “until he can no longer distinguish . . .” implies that, prior to that state of intoxication, one is, indeed, capable of differentiation. And it is in that period and state of mind that the celebrant is required to offer praise to God for the double dose of Providence. However, once attaining the stage of drunkenness that no longer permits distinguishing between the two acts of Divine kindness, one is exempt from offering praises to God. While this approach does not serve to limit the excesses of drink, it directs the celebrant’s alcohol-aided joy towards God and the miracle of Purim “until” he is no longer able. . . .

### *Obligation*

At this juncture, it becomes fitting to pose the question of why one should imbibe heavily altogether? Granted that wine is a symbol of joy and blessing in the Jewish holiday cycle, but to drink to inebriation seems totally out of place in the Jewish tradition. And, yet, it would

18. See especially *Sefer HaMe’orot* to *Megillah* 7b and *Korban Netanel* to the *Rosh* (a 13th century halakhist, father of the *Tur*) on *Megillah* 33b.

19. See *Magen David* to *O.H.* 695:1. The *Bakh*, interestingly, would have one continue to direct one’s thoughts on high even in a state of intoxication; see *Bakh* to *O.H.* 695.

be well to remind ourselves of the centrality of the wine-feast in the Purim story. It was through such a feast that Queen Vashti was deposed so that Esther could take her place. It was through a feast that Esther was made Queen. And it was through a series of well-planned banquets that Esther brought about Haman's downfall.

The symbolic importance of drinking in invoking the memory of the great miracle of Purim is understandable.

But can we really maintain, despite the many convincing interpretive attempts to lower the limits of drink so as to emphasize the religious nature of the holiday, that the Talmud originally obligated one to get drunk? Might we not argue that permission was granted to become inebriated but it was not a rabbinically ordained requirement to do so? Perhaps we might go so far as to claim that Rava originally made his statement in the jestful mood that befits the Purim holiday.

While the opinions on the intent of the term of obligation run the gamut from a literal understanding to mere jest, the vast majority of interpretations fall somewhere in between. An acquaintance with rabbinic thought, as well as common sense, are on the side of those who call for moderate drinking. Surely Purim is a day of "feasting and joy" which requires the drinking of alcohol, but it also is a day of exchanging gifts, giving to the poor, reading the Scroll of Esther (twice, in the evening and morning of Purim), and directing our thoughts to God who is understood to have performed the saving miracle.

The moderating position is early set forth by the *Raviah*, who holds that the obligation to drink is a *mizvah* in a general sense, but one has, nevertheless, fulfilled the obligation even if one does not become drunk.<sup>20</sup> This paradoxical statement, of not being held to a religious requirement, underscores the ambiguity with which the commentators approached the powers of drink.

Many saw drunkenness as absolutely forbidden and, hence, the statement of Rava as mere exaggeration, for it was inconceivable to later rabbis that the Talmud should foster the kind of foolishness and frivolity that comes with drunkenness, over the joy of delight that would lead to a love of God and His saving acts.<sup>21</sup> The compromise alternative, eventually accepted by the authoritative 16th century gloss to the *Shulhan Arukh*, dictated that "one should drink slightly more than he is accustomed in order that he increase his joy and make glad the poor and comfort them and speak to their hearts. The is true [religious] joy."<sup>22</sup>

The later commentators were much more concerned about the dangers of drink, both to the holiday mood and to the celebrant himself.

20. *Raviah* to *Megillah*, 564. See also *Darkhei Moshe O.H.* 695 and the *Responsa* of the *Maharil* 56:9.

21. See *Sefer HaMe'orot* and the *Beit HaBehirah* to *Megillah* 7b.

22. *Remah O.H.* 695; also *Kol Bo*, Purim 45.



Moshe Mat, a Galician rabbi of the late 16th century, complains of those who turn the Purim holiday into a prolonged drinking spree in which they gorge themselves, disturb the prayer services, and fail to appreciate the religious significance of the day.<sup>23</sup> The 19th century commentator, *Arukh HaShulhan* (Jehiel Michel ben Aaron Isaac Halevi Epstein), points out the varying levels of tolerance to alcohol found among people, and argues that each celebrant is permitted to reach his own threshold of drunkenness.<sup>24</sup> Those who cannot hold their liquor or are alcoholics should certainly refrain from the “requirement” to drink.<sup>25</sup> The “*Khaf HaHayyim*” (a 20th century commentator), expands and clarifies this moderating position:

But the weak-constituted, who is impaired by drunkenness, it is obvious that he is not obligated in this. Also not one who behaves like a fool with his wine, for there is not in him any understanding of his Creator or purpose to the action. And concerning this it is said: “Equal is he who drinks a lot and he who drinks little as long as he directs his heart to Heaven.”<sup>26</sup>

Through various interpretations, the majority of commentators have removed the sense of obligation from Rava’s statement simply because drunkenness is not something that is worthy of a Jew.

From a short Talmudic statement and an outrageous accompanying story there have emerged many impressive interpretations aimed at limiting the injunction to drink heavily. Most of these do have a possible basis as the *peshat* (plain) understanding of our source, while others are clearly in the realm of *derash* (homily). A major criterion for arriving at a *peshat* understanding is to take into account the context in which the source is found. Not only is Rava’s statement followed by the bizarre story of Rabbah and R. Zeira, but it is found within a series of semi-humorous accounts on the Talmud page. Indeed, it is quite possible that Rava’s injunction to drink and the accompanying story were meant to be taken in the light-hearted manner in which the Talmudic discussion was taking place. We may be dealing with a kind of ancient Rabbinic *purim-shpiel* (play).

However, discovering the humor in the words by no means lessens their message. Humor can be a most powerful and incisive way of teaching a profound point, especially when the message has to do with the often absurd nature of our world. The story of Rabbah and R. Zeira, while pointing out the dangers of drink, also demonstrates the seeming banality and unpredictability of much of the evil that is to be found

23. *Mateh Moshe* 5:1011.

24. *Arukh HaShulhan* O.H. 695:3.

25. The *Sha'arei Teshuvah*, in the name of *Siddur Amudei Shamayim*, in perhaps an early reference to alcoholism, remarks that “he who is weak in his constitution or greatly behaves like a fool that he comes by this [drinking] to indecent deeds and words, should not drink too much.”

26. *Khaf HaHayyim* O.H. 695.

in the world. That R. Zeira could get his throat cut by his dear friend and colleague is absurd. That it took a miracle to restore him to life so that Rabbah could invite him to get drunk again the following year is even more absurd. And the punchline of the Kafkaesque story, “A miracle may not happen every time!,” points to the precarious nature of the world — one of Purim’s messages — and God’s ability to set it aright.

It has often been noted that mention of God is conspicuously absent from the entire Scroll of Esther. At the moment of greatest need, when evil is rampant, God seems nowhere to be found. The Book of Esther can be seen as part of the genre of Wisdom Literature which openly questioned the religious assumptions of the day, and sought to make sense of a confusing world full of difficult moral choices — a world where the distinction between good and evil are all too easily blurred.

This is the power and danger behind Rava’s injunction to get so drunk that we can no longer distinguish between the good of “Blessed be Mordecai” and the evil of “Cursed be Haman.” Drunkenness provides a temporary respite from the everyday problems of sorting out and making sense of the shades of good and evil in our world. It allows a return to a simpler time, a return to a child-like innocence before human knowledge of good and evil. It affords an approximation of that deep-seated human desire to return to the Garden of Eden prior to the eating of the fruit of the Tree of Knowledge of Good and Evil. It is the temporary removal of the awareness of the strictures of morality and law.

It is this wish to return to Eden, to Paradise, that, ironically, has led to so much human hatred and destruction throughout history. Those who advocate a return to a simpler time, without strife and differences, soon impose their universalistic vision of truth and sameness on others. The end result is the religious sword, or Auschwitz, or the *gulag*. And the Jews, who brought the idea of a supreme moral God into the world, and who strive to maintain their distinct identity to further God’s cause, often bear the brunt of the assault. When it comes to recreating an earthly Eden, one truly cannot go home again.

The abandonment of societal norms in drunkenness, while meeting a primordial urge, is antithetical to all that the Jewish tradition stands for. An anthropological study would reveal that the holiday of Purim is not unique in providing a time of revelry to lose oneself in the primitively satisfying excesses of drink and noise and costumes. The carnival celebrations of other cultures may perhaps share a similar origin in a pagan festival celebrating the end of winter and the coming of spring. But where carnival time is an extended period of drinking, carousing, and wild abandon, Purim is of limited duration, moderate drinking, and religious significance. The Rabbis have taken this antisocial and antinomian urge to escape reality, and they have permitted an outlet

for it in Purim. But they have also so limited and confined the revelry, that it does not transgress basic Jewish morality and law. They have taken what could be an occasion for pure escapism and transformed it into a holiday that, instead, joyfully celebrates the cunning triumph of the forces of good over those of evil — not in the realm of the heavens but in the very real world in which we live.

To be human, to be made in God's image, means to recognize the existence of good and evil in the world, to differentiate between them, and willfully to choose the moral path. And for the Jew, as Heschel points out, "Sinai is at stake in every act of man, and the supreme problem is not good and evil but God and His commandment to love good and to hate evil."<sup>27</sup> It is in this sense that God is present in the guiding thoughts of Mordecai and Esther, who do not hide behind rationalizations or wait for a miracle, but confront the situation with a love of good and a hatred of evil.

Purim, then, is certainly an apt occasion joyfully to celebrate the victory of Mordecai and the Jews over Haman's insidious plot to destroy them, a scenario all the more poignant for its more tragic parallels throughout Jewish history. The Rabbis of the Talmud and later commentators have picked up and emphasized the Divine role in the Purim story. They have also made clear how properly to express our joy.

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27. Abraham Joshua Heschel, *The Insecurity of Freedom* (New York: Schocken Books, 1959), p. 143.

# “Am K’shei Oref”: *Oppositionism in the Jewish Heritage*

SAM LEHMAN-WILZIG

## *Introduction*

IN A SHORT BUT SEMINAL ESSAY OVER SIXTY years ago, the noted Jewish historian, Cecil Roth, advanced a thought-provoking contention. He described the Jew as the “Eternal Protestant,” a personality type

who always refuses to be satisfied with the present condition of affairs, and will never surrender himself entirely to the prevailing current in ideas, in ideals, in political theory. . . . Jews are still protestants — protestants against the modern deification of the State as they were against the deification of the Church four centuries ago, and against the juggernaut of Hellenism before the Christian era began. . . .<sup>1</sup>

Intriguing as this argument was, neither he nor anyone else followed up on it in any kind of systematic analysis of the extent and basis of such “Jewish Protestantism.” The following essay will attempt to do just that, albeit using a more comprehensive and all-inclusive term: “oppositionism.” But before we can analyze what it encompasses and how it has been expressed and manifested over time, a few brief points of explanation are in order.

First, no claim is made here to exclusivity. In other words, just because it can be shown that the various elements of “oppositionism” are significant in the Jewish political tradition does not mean that they are not to be found in other peoples’ heritages as well. For our purposes it will be enough to show that sundry elements of “oppositionism” constitute a fundamental aspect of the Jewish socio-political tradition, fairly consistent over time.<sup>2</sup>

A second point needs to be stated here in as clear and unambiguous

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1. Cecil Roth, *Personalities and Events in Jewish History* (Philadelphia: The Jewish Publication Society of America, 1953), p. 77.

2. Some students of the matter, though, maintain that : “Among Jewish teachings is one which is . . . virtually unique among world religions . . . a recognizable stream of Jewish thought . . . not confined to any period or school but is to be found in biblical, talmudic, kabbalistic, hasidic, and modern sources. . . . [t]he idea that God has something to answer for, not only prayer to respond to. . . .” (Abraham Kaplan, “The Jewish Argument With God,” *Commentary*, Vol. 70, #4 (October, 1980): 43-44).

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a fashion as possible, as it will not be dealt with in the course of this exposition — if “oppositionism” constitutes a central element of the Jewish political creed, no less so is the idea of “duly constituted authority which must be obeyed” an integral concept in that same tradition. Of course, it must be so if the Jewish polity were not to deteriorate into utter chaos and anarchy.

Thus, while a matching numbers game is almost irrelevant in the context of an exploration into Jewish political culture, one could probably find about as many sources propounding the creed of “obedience” as those that shall be brought forth for “oppositionism.” Suffice it here to quote but a few of the more famous:

Pray for the peace and security of the monarch, for were it not for fear of him, Man would swallow up his neighbor.<sup>3</sup>

We will do and we will listen.<sup>4</sup>

The law of the land is the law.<sup>5</sup>

In essence, the ultimate point of the argument contained here is that “obedience” and “oppositionism” are both to be found in the Jewish political tradition — not so much as opposing concepts, but, rather, as two complementary sides to the same philosophical and practical coin.

### *The Elements of Oppositionism*

“Oppositionism” can take many forms. For our purposes we shall divide the concept into four different elements: argumentativeness, protest, disobedience, and rebellion.

*Argumentativeness* is an intellectual quality, a mindset which is, at base, skeptical of received truth, perceiving things not monistically but dialectically. Whatever the conventional coin of wisdom at the moment, an ar-

3. *Pirkei Avot* 3:2; also in T. B. *Avodah Zarah* 4a.

4. Exodus 24:7.

5. T.B. *Bavah Kamah* 113a. To be sure, this is not an altogether simple dictum. There are many mitigating aspects as well as outright exceptions to the rule which tend to reinforce Jewish “oppositionism.” For a full treatment see Shmuel Shilo, *Dina D'malkhuta Dina* (Jerusalem: Schocken Press, 1984), p. 65. For some interesting examples of such “oppositionism” within a concept which, on the face of it, demands obedience to authority, see Gerald J. Blidstein, “A Note on the Function of ‘The Law of the Kingdom is Law’ in the Medieval Jewish Community,” *The Jewish Journal of Sociology*, vol. 15, #2 (Dec. 1973): 213-219. Of particular relevance to our topic is the fact that, while the rabbinical authorities in the Diaspora denied the legitimacy of Gentile law on many occasions, such pronouncements were not for practical application at the time but, rather, for educative purposes towards the future when the Jews would once again live within their own legal framework: “Inasmuch as those to whom the rulings were primarily addressed were not in actuality touched by them (a fact of which the rabbis were aware from the outset), the doctrines expounded in definition of the proper and legal operation of governmental authority were neither a response nor an accommodation to the realities of the day. In a sense, we have legislation for a State that does [did] not exist” (pp. 217-218), but for one which, it was hoped, would exist in the future.

gumentative mind tends to flip it over in order to reflect upon the obverse side and debate its merits.

*Protest* is more of a moral quality, whereby one's voice is raised against the action, and not merely the thought, of another. Conversely, it may manifest itself in ways other than the purely verbal. It takes place in order to express a sense of injustice (and not just the possibility of "another way"), and demands actual redress, not merely reconsideration. Finally, as in argumentativeness, the element of protest may be directed at one's peers as well as at a higher authority. Rebuke and remonstrance, in the Jewish tradition, is addressed at one's equals and one's "betters" without much discrimination between the two.

*Disobedience*, on the one hand, is in actuality a stronger expression of opposition to the powers-that-be, yet philosophically presents less of a threat. As opposed to protest, where a stance is taken against the authority's position on a matter but the directive of that authority is not transgressed, with disobedience one crosses into the realm of "illegal" action. From a legal perspective, then, it is a more serious matter than protest, which may or may not be prohibited by the statutory or political system. However, disobedience does not always carry with it a "political" statement, i.e., the perpetrator may know that s/he is going against the will of the authority but may have no intention of sending any sort of "message" regarding the transgressed law. With protest, though, the adversarial position vis-à-vis the leader(ship) is patent from the start, and thus demands more of a reasoned response on the latter's part.

With *rebellion*, we move away from lower-level legal/political matters to the ultimate plane of constitutional oppositionism. Here, it is not a specific policy or law which is under attack, but the very existence or legitimacy of the leader(ship) and/or the type of regime in which the political activity takes place. In modern parlance this is called "revolution," and constitutes a much more profound form of opposition to the status quo.<sup>6</sup> It almost always involves bloodshed (although this is theoretically not inevitable), literally a form of "life or death" oppositionism for those directly involved.

It should be obvious from the foregoing definitions that there exists a degree of overlap and/or ambiguity within and between these four elements of "oppositionism." But such ambiguity need not concern us, for what is important here is the totality of the Jewish oppositionist experience, both cognitively and experientially. The more discrete division into four elements is but a heuristic device for fleshing out Jewish "oppositionism" in all its variegated manifestations.

6. Strictly speaking, there is a difference between rebellion and revolution. The former involves the unconstitutional overthrow of the leadership within the government; the latter is a matter of changing the very system of government, the constitutional regime itself. There are few, if any, examples of "revolution" in Jewish history; it is, however, replete with "rebellion," as we shall shortly see.



*The Origins and Theology of Jewish Oppositionism*

One of the fascinating ironies of Jewish history is the extent to which an ostensibly authoritative politico-religious system was punctuated by instances of public argument, protest, disobedience, and outright rebellion against the power(s) that be. This was true on a dual plane — human and Divine. Indeed, of the fifty-plus instances of such behavior described in the Tanakh, the elements of “oppositionism” are to be found about equally divided against the authority of the temporal ruler and against the absolute sovereignty of God.

Nor is such an attitude the exclusive province of any specific period. True, the dominant tone is set early on in the Jewish national experience, as the Bible notes not one but four cases of bitter complaint on the part of the Israelites immediately upon their escape from Egyptian bondage. But the frequency, several centuries later, of outright rebellion against the monarchy relatively soon after its establishment is no less astonishing. And the tradition continues in force at least through the Roman period (e.g. the Bar-Kokhba rebellion, 132 C.E.), despite the terrible price of the Second Temple’s destruction as a result of the Jews’ rebellion a few decades earlier.

One clue as to a possible reason for such consistently collective oppositionist behavior may be found in the only significant period when virtually no such activity (at least against temporal authority) is mentioned: the period of the Judges. It is no coincidence that this is also the era of weakest central government in the entire epoch of Jewish self-rule within the confines of the Holy Land. Seemingly, strong central authority is not a situation that the Jewish people can long endure. Particularly instructive is the exception to this rule: when the Israelites demand of Samuel the anointing of a king, he warns of the dire consequences to follow.<sup>7</sup> Already during the rule of the second king (David, no less!) the Israelites are to be found rebelling.<sup>8</sup>

Why the inchoate antagonism to strong, unitary government? Possibly, the cause may reside in the very beginnings of Jewish history, indeed, in its pre-history. As is noted in Genesis, XI:31, the founder of Judaism, Abram, grew up (and married) in Babylonia. What was the politico-constitutional system in existence at that time? The first verses of the very same Biblical chapter state in clear terms (and the juxtaposition of the two ostensibly totally different stories can hardly be coincidental) that Babylonia had become a polyglot society with fragmented rule.<sup>9</sup> In short,

7. I Samuel, VIII:4-7.

8. II Samuel, XV-XVIII; XX:1-22.

9. Genesis, XI:7-9. The medieval commentator, Sforno, contends (verse 4) that the whole Tower of Babel project was to establish a unitary World Government (and — inevitably — an oppressively uniform society) under the rule of Nimrod. Thus, such overarching rule is not only distasteful for the Jew, but God, as well, finds it abhorrent, leading to His direct intervention and undermining of the entire enterprise.

Abram's political socialization occurs in an environment where central governmental rule is nowhere to be found and where, instead, all "people" with their own culture (their own "tongue," to use the Biblical term), develop as the spirit moves them.<sup>10</sup>

Abram finds quite a similar situation in Canaan (at least nine kings in a relatively small area), but, of necessity, must come into contact with a civilization based on quite a different constitutional system — Pharaonic Egypt. The complications in which Abram gets involved (with the Pharaoh, no less) over his wife Sarah could not but have reinforced his positive feelings for less powerful governmental rule.<sup>11</sup> In any case, whether this constitutional antipathy was transferred to his immediate progeny is a moot question, for the Children of Israel undoubtedly (re)learned the lesson in their Egyptian period of extended bondage — this time for all Jewish generations to come.<sup>12</sup> And the Bible subsequently makes crystal clear the fact that, upon entering the Promised Land, the Israelites (although fighting as a unified force) would be living in a very loose confederal tribal arrangement — in essence, picking up where they had left off when last controlling their own lives in their homeland. In short, strong centralized rule was not something indigenous to the Jewish people; on the contrary, their only early experiences with such a system of government left a very bitter taste in their mouths — and would continue to do so in future generations, even under self-rule.

Philosophically, this antipathy to overweening authority finds its source in the Covenant,<sup>13</sup> the original pact between God and Abram.<sup>14</sup> While not an agreement between absolute equals, it does make the relationship between ruler and ruled a mutual one in the Jewish tradition — no less so vis-à-vis God than a temporal ruler.

Indeed, it is again no coincidence that, in the very next chapter after the Covenant is entered upon, Abraham (the added letter *heh* in his name signifies a higher status, an incorporation of part of the Divine Name and, according to Genesis 17:5, representing Abraham's status as father of a

10. On the face of it this seems to be somewhat belied by the Aggadah (legend) of Abram being thrown into the furnace by King Nimrod for the former's opposition to idol worship. However, a closer reading of this Aggadah, as brought by the noted Bible commentator Rashi (Genesis, XI:28), suggests otherwise. It was only upon the complaint of Terah against his son Abram for having destroyed all of the former's idols that the king forced Abram to walk into the furnace. Thus, the transgression was not theo-political but, rather, more mundanely familial (or perhaps just property-related). Parental disobedience was not countenanced in any ancient society, but this was no reflection on the society's political decentralization or theological pluralism and tolerance.

11. Genesis, XII:10-20. A similar story occurs a bit later (Genesis, XX), this time with the most powerful local ruler — King Avimelekh.

12. Avraham Wolfensohn, *May'ha'tenakh Le'tnuat Ha'avodah* (Tel Aviv: Am Oved, 1975), pp. 38-41.

13. Daniel Elazar, ed., *Kinship and Consent: The Jewish Political Tradition and Its Contemporary Uses* (Ramat Gan: Turtledove Publishing, 1981), pp. 21-86.

14. Genesis, XV:18; XVII:1-14.

multitude — *hamon* — of peoples) starts an argument/dialogue with God regarding the issue of collective punishment.<sup>15</sup> And God is “forced” to backtrack in the face of Abraham’s moral onslaught! No clearer message could be given from the beginning of Jewish history regarding the legitimacy of protest, the inalienable right of the Jew to raise his or her voice against perceived injustice from on high.

How much more does this hold true regarding purely temporal political authority. Here one can say that the Covenant holds even greater revolutionary potential, for if the sacred compact is between Jew and God, any action by a mortal ruler which does not fit the provisions (or spirit) of the Covenant could be argued with, protested against, disobeyed, even fought, on the highest constitutional and moral grounds. In a sense, by covenanting with the Children of Israel, the Universal Sovereign transforms the citizenry into a sovereign body as well, on the same equal terms as God’s temporary political executor on Earth. This does not mean that rebellion is justified on purely utilitarian (Lockean) grounds, but that when the government acts unjustly any one of the two original partners to the Covenant (God or the Jewish people) can intervene to right the wrong.

Nor is this the end of the Bible’s justification of oppositionism. It seems that there is an aspect even more profound than political philosophy at work here: human nature and Jewish theology. At least one noted modern student of the subject believes that Judaism contains a theology of “oppositionism” based on the psychology of Man. The very first interactive story in the Bible indicates that not only is it human to disobey, but that disobeying made us human!

Stripped of subsequent interpretation, the narrative reports that Adam and Eve were in a garden, living crudely and mindlessly like the animals surrounding them. “They were naked and not ashamed” — this, from the wisdom narrator’s point of view, was not a blissful, Rousseauesque state but a horrible primitivity. However, there was a tree in the garden with knowledge-giving fruit. Only God forbade the couple to eat of it, and He made sure his prohibition would be heeded by threatening them with immediate death if they disobeyed. . . . [T]he serpent informs them that the threat is empty: the fruit is not death-bringing, not fatal, on the contrary it will open their eyes and make them discerning. So they do eat of it, and indeed God turns out to have been lying. They do not die, and their eyes are opened exactly as the serpent, the Prometheus of the Biblical story, told them. They become discriminating between good and evil . . . the start of human civilization.<sup>16</sup>

More suggestively, a leading contemporary Orthodox commentator places religious questioning, skepticism — what he calls “doubt” — within the mainstream of Jewish theology. Such doubt, it is claimed, has a pos-

15. Genesis, XVIII:22-33.

16. David Daube, *Civil Disobedience in Antiquity* (Edinburgh: Edinburgh University Press, 1972), p. 61.

itive function, with a “sufficient halakhic warrant for the thesis that doubt — the state of questioning suspension between faith and denial — can be acknowledged as legitimate within the confines of cognitive faith.”<sup>17</sup> In fact, if one searches for the ultimate source of such a “state of mind” it becomes clear that “doubt” is not a property of Man alone — God, too, doubts!<sup>18</sup> If Man, then, is created in God’s image, doubt (at least in the Jewish conception) does not emerge out of Man’s weakness alone but out of the necessity for (at least) the possibility of doubt in any truly free relationship,<sup>19</sup> a quality learned from his Creator.

Finally, from a Jewish perspective it is highly significant that the source of the very name of the Jewish nation is steeped in oppositionist struggle. The underlying meaning of the specific story in Genesis, XXXII: 25-32, is enigmatic to say the least, but the bare details are simply understood:

And Jacob was left alone; and there wrestled a man with him until the breaking of the day. And when he saw that he prevailed not against him, he touched the hollow of his thigh; and the hollow of Jacob’s thigh was out of joint, as he wrestled with him. And he said, “Let me go, for the day breaketh;” and he said, “I will not let thee go, except thou bless me.” And he said unto him, “What is thy name?” And he said, “Jacob.” And he said, “Thy name shall be called no more Jacob, but Israel: for as a prince hast thou power with God and with men, and hast prevailed.” And Jacob asked him, and said, “Tell me, I pray thee, thy name.” And he said, “Wherefore is it that thou dost ask after my name?” And he blessed him there. And Jacob called the name of the place Peniel: “for I have seen God face to face, and my life is preserved.”

By the very name which they bear, then, the Children of Israel symbolize an unwillingness to submit to accepted authority. The blessing of chosenness which they carry was not something foisted upon them but, rather, was fought for — and it has exacted a price, as the story makes clear. But such was the nature of the Jewish people’s forebears (both Abraham and Jacob), and their timeless willingness still to be called “Israel” is ample testimony to a continuation of that “oppositionist” spirit.

In sum, historically, allegorically, philosophically, and theologically, the various elements and explanations which comprise and justify “oppositionism” in the Jewish heritage are legion and profound. Once again, one should not exaggerate this aspect to the point of raising it above other central components of Jewish belief and practice. But as we turn now to a more detailed (albeit hardly exhaustive) historical and halakhic survey of each of the four elements of “oppositionism” in the Jewish tradition,

17. Norman Lamm, *Faith and Doubt: Studies in Traditional Jewish Thought* (New York: KTAV Publishing, 1986; 2d edition), p. 18.

18. In the past God has doubted: whether He erred in creating Mankind; in making the Children of Israel the “Chosen People”: etc.

19. Lamm, *Op. cit.*, pp. 32-34.

it will become clear that the general idea and approach have become an integral part of the Jewish political (and intellectual) heritage.

### *Argumentativeness*

Somewhat surprisingly, of the fifty-plus documented cases of “oppositionism” in the Tanakh, only four can be categorized as entailing argumentativeness. Why surprising? First, as the simplest and least threatening of oppositionist elements, one would expect to find it highlighted more than the other more politically corrosive types. Second, given the heavy emphasis placed on argumentativeness in the post-Biblical (Diaspora) era, one is somewhat taken aback at the relative dearth of Biblical antecedents.

On second thought, however, the matter is not altogether surprising, since the Bible tends to highlight the more important events and types of human interaction. Furthermore, since the “higher” elements of “oppositionism” by definition already contain the argumentative qualities of skepticism, doubt, questioning, and voice, there is less reason to focus on simple argumentativeness for its own sake in any effort to show it as a positive quality.

Beyond this lies a more interesting matter: virtually all of the Biblical examples of argumentativeness are found within a context of a fluid relationship between the protagonists. In other words, where there is a lack of established hierarchical authority (or where it has only recently been established and at least one of the participants has not fully internalized the new relationship), the mode of oppositionist expression is argumentativeness. In such a situation the “arguing” side may feel the equal of the other or may be testing the limits of the permissible within the new authority/subject relationship. Thus, Cain, Abraham (immediately following the Covenant), and the Israelites with Samuel (over the issue of anointing a king for the first time) — all were argumentative in a situation of “authority flux.” Indeed, it is the very outcome of the specific arguments which determined the ultimate authority framework, and not the original directives by the authority.<sup>20</sup> In a sense, then, argumentativeness can be seen as serving a necessary, at times even positive, purpose.

This would also explain the relative dearth of purely argumentative examples in the Bible, for in most cases the authority pattern (be it Divine or temporal) was well established. Put another way, argumentativeness and protest in the Bible are basically the same thing; what differs is the institutional context within which the respective element is expressed. When in an “open” relational context, the mode is argument; when in a

20. For example, God prohibiting any eating from the Tree of Knowledge; and God's Biblical commandment for setting up the monarchy. Both were non-determinative in the final analysis. Rather, Adam and Eve's punishment, and God's directive to Samuel to anoint a king, determined the final pattern.

“closed” or established context, the mode tends to be protest (or something even stronger). Argumentativeness flourishes mostly in circumstances of (quasi-)equality.

And such was the situation after the destruction of the Second Temple and the loss of political sovereignty. To be sure, almost everywhere that the Jews settled they established communal political entities with distinct authority patterns. But these took some time to concretize and, in any case, could never be of the same stature as the more firmly (theologically) grounded authority patterns of the Biblical era. In such an environment of political and theological novelty, of dynamic authority relationships, argumentativeness came to the fore as a central mode of political and, especially, neo-theological (i.e. halakhic) expression.

The paragon of this argumentative spirit, of course, is the Talmud — a huge compendium of Jewish “law” (in the very widest sense of the term) which is dominated by an air of skepticism, questioning, cross-examination, and doubt. It is safe to say that no other civilization in human history has so revered (and studied with so great intensity) such an authoritative — yet decidedly non-authoritarian — body of work.<sup>21</sup>

The governing principle of the Talmud, especially with regard to its applicability to succeeding generations, is the famous dictum: “*ellu ve’ellu divrei Elohim hayyim*” [both opinions are the words of the living God].<sup>22</sup> It is important to understand a number of points about this aphorism. First, it not only entered Jewish usage as a legalistic way of viewing things, but, also, became a coin of expression applied to virtually all walks of Jewish life where differences of opinion exist. Second, above and beyond the inculcation of tolerance for another’s intellectual position, it actually created a Jewish mindset that was willing to accept the legitimacy of two opposing positions existing at one and the same time. Third, and most important from a practical standpoint, Jewish law went even further than philosophically legitimating such duality. Opposing halakhic decisions were rendered by different rabbinical decisors, sometimes during the same historical period, based on the original conflict of opinions.<sup>23</sup> Thus,

21. David Dishon, *Tarbut Ha’mahloket B’Yisrael* (Jerusalem: Schocken Press, 1984).

22. T.B. *Eruvin* 13b. The full passage is: “For three years the House of Shammai and the House of Hillel disagreed, the one saying the law is as we see it and the other saying the law is as we see it. There issued forth a voice from heaven saying: *ellu ve’ellu divrei Elohim hayyim*, but the law is as the House of Hillel says. . . .” Here we see an important distinction between accepting the legitimacy of differing opinions and the need for unified behavior. In other words, the Jewish political tradition is much more tolerant (even encouraging) of verbal oppositionism or argumentativeness, and much less accepting of physical oppositionism or disobedience.

23. Joel Roth, *The Halakhic Process: A Systemic Analysis* (New York: The Jewish Theological Seminary of America, 1986), chapter 4. The author, a contemporary rabbinical decisor for the Conservative movement, adds a few more elements to the argumentative pot. As he argues and illustrates throughout the book, the halakhah is a “system that recognizes the legitimacy of *mahloket* [difference of opinion], even to the point of permitting dispute about the *de-oraita* [Biblical origin] or *derabbanan* [rabbinical origin] status of a given *mizvah*



the Jew actually *lived* the concept of opposition and duality. After a while, argument was not even second nature; it had become first.

Inarguably, the quintessence of the Talmud's whole approach to argumentativeness is to be found in the famous story of Rabbi Eliezer, who stood fast in an halakhic dispute against all the rest of his colleagues. In order to prove that his minority opinion was the correct one, he called for a number of miracles to take place, of which the final "conclusive" proof was a heavenly voice (presumably of God) proclaiming Rabbi Eliezer's correct approach to the point in dispute. The response of the rabbis?

Rabbi Joshua stood up and said: "[as is stated in the Bible] the law is not to be found in Heaven." To which Rabbi Yirmiyah added, "because the Torah has already been given at Mount Sinai, we do not follow voices from Heaven since you [God] already wrote at Sinai: 'Do as the majority decides'."<sup>24</sup>

Such a brazen "putting in place" of the Ultimate Sovereign is probably unique in the annals of those human civilizations which based themselves on a supernatural authority. In simple terms, the rabbis were expounding the principle that, once the rules of the game had been laid down by God and accepted by the Children of Israel, neither side could unilaterally abrogate them. God, too, was subject to his own Law. Any "transgression," even by Him, was open to argument, even criticism. How much more open to argument were the opinions of the temporal and/or religious leaders!

The above story suggests that the principle of majority rule overrides all other considerations in Jewish law. In the final analysis this is correct, but only if certain stipulations are met.<sup>25</sup> One such requirement further reinforces the importance of argumentation within the Jewish tradition:

The majority will is never decisive unless the entire community is present at the meeting, and the majority votes against the minority in its presence. However, if the minority was not present at this meeting, the largest majority possible cannot decide anything.<sup>26</sup>

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[commandment], that permits a broad range of divergent behaviors, that postulates *ein lo dayyan ella mah she-einav ro'ot* [a decisor must rule on the basis of his view of the facts before him] as the central systemic principle, that affirms the idea that *ellu ve-ellu divrei Elohim hayyim...*" (p. 150). One may add to this another Talmudic suggestion — one which actually goes further than the above postulates because it brings the phenomenon down to the masses and in a sense institutionalizes the Jewish dialectical way of seeing things: "All who learn Torah from only one Rabbi will not see the correct path of the world" (T.B. *Avodah Zarah* 19a).

24. T.B. *Bava Mezi'ah* 59b.

25. Beyond the one quoted here, the most important requirement is that such decision not override a *grundnorm* of the Jewish faith, or a clear Biblical prohibition. See Roth, *The Halakhic Process*, chapter 7.

26. Yaakov Meshulem Ginzberg, *Mishpatim LeYisrael* (Jerusalem: Harry Fischel Institute, 1957), pp. 60b-61a (my translation). It should be noted as well that the court could not convict a defendant of a capital crime if there was no dissent, presumably because the opinion to convict had not been adequately tested (T.B. *Sanhedrin*, 17a).

This was not so for any formalistic or technically legalistic reason (although the Jewish tradition does make a fetish of proper due process), but, rather, because it was felt that no correct decision could be taken by the majority (despite, or perhaps because of, its large size) if the opinions of the minority were not heard and taken into account by the majority.<sup>27</sup> Here we see a point which will recur in some of the other oppositionist categories: oppositionism is of critical importance to those in power, and not just to those bereft of it.

In sum, the Jewish mindset from almost the start was argumentative. This trait only became stronger as time went on and the Jewish people were left to their own devices after God “withdrew” (in an active sense) from Jewish history in the post-Temple period. The modern stereotype of the “argumentative” Jew is not only a truism (as a generalization) but is perceived by the Jews themselves as a most positive personality characteristic. While it may not have made life easier for the Jew (and certainly not for the leadership), it definitely served the constructive function of constant legal, theological, and political reassessment in a distinctly hostile and ever-changing world.

### *Protest*

From the very start of the story of the Jews as a sort of nation-information, we find that protest constitutes the central mode of oppositionist political expression.<sup>28</sup> As noted above, in the first Torah portion of the week covering the post-Exodus happenings (Genesis, XIV-XVII), we find not one but four instances of public protest! And this after the ten plagues visited upon Egypt and the Children of Israel’s long awaited freedom! Vocal complaining was obviously something that came naturally to the Jews, despite the fact that for 210 years they had had little opportunity to practice the art.<sup>29</sup>

27. There is another side to this coin, too. A number of rabbinical authorities contended that an edict/law promulgated by the majority could still be nullified by the community’s rabbi/scholar/wise man; some even claimed that in order to be valid it needed such an individual’s imprimatur. While such opinions undercut the principle of majority rule, indirectly it was another way of carrying the principle of “argumentativeness” one step farther. At the least, it set up a legislative system of checks and balances, systemic “oppositionism” of the most efficient sort. See Hilda Shatzberger, *Meri U’masoret* (Ramat Gan: Bar-Ilan University Press, 1986), pp. 17-18; 120 (fn. 39 and 40). Indeed, the Talmud goes so far as actually to institutionalize (and not merely legitimize) the idea of “minority opinion.” The *zaken mamreh* (rebellious elder) is a wise man whose halakhic opinion has already been overridden by the *Sanhedrin* (Israel’s supreme halakhic-legislative body). Nevertheless, he is permitted to return to his native town and continue to argue for the correctness of his own opinion! (T.B. *Sanhedrin* 11b). Once again, however, he is enjoined from acting on his opinion.

28. Strictly speaking, this is not entirely correct as there are a few more cases of disobedience than of protest. However, a large majority of the former involve disobedience on matters that are religious in nature. Protest over political behavior is to be found in far greater numbers than disobedience to strictly political edicts.

The Bible's early perspective on the protest phenomenon is, however, more complex. On the one hand, in many cases it is clear that such protest is not looked upon kindly; on the other hand, there are few instances where the protesters are actually punished for their verbal oppositionism. In those cases where punishment is meted out, the protest has come perilously close to rebellion or non-acceptance of the authority's power and/or sovereignty. Such was the situation after the twelve spies returned from the Promised Land and ten gave a negative report (Numbers, XIV:1-4), for example.

Interestingly enough, once a strong central government is established in the form of the monarchy, the Biblical approach to public protest changes to a more positive vein. Again, we have already seen why this should be so, given the Jews' innate antipathy to powerful rule. Indeed, it is no coincidence that the rise of the prophet commences around the time of the establishment of the monarchy, and that the former (albeit grudgingly in the form of Samuel, the first prophet) set up the latter — as if to place the cure (public protest) before the illness.

We need not discuss at length what is, by all accounts, one of the more important and unusual quasi-political institutions in the Jewish tradition — the prophet. In the most eloquent and forceful language, a very long line of brave souls took it upon themselves to be society's conscience — not only railing against the transgressions of the masses, but rebuking those on high as well for their overweening and arbitrary use of power.

And therein lies an important point, for there seems to be no distinction made between protest against one's peers and one's superiors. In the face of Divine law, all are equal and all are equally open to public criticism. Conversely, there is also no difference in the standing and ability to protest between men of God or individuals with no formal religious (e.g., priests) or quasi-religious (e.g., prophets) status. In short:

The common denominator of the two types of opposition in the Bible is precisely the "technical" one, that the prophetic and the secular oppositionist arguments were inscribed as one in the sacred writings of the Jewish people, and constituted an educational example and source for the belief that the institution of opposition was a legitimate part of the accepted political system, and of the political culture of ancient Israel.<sup>30</sup>

29. In this context, it is worthwhile relating a famous Israeli joke dealing with the "naturalness" of Jewish political protest: A Russian Jewish dissident, let out of the Soviet Union to emigrate to Israel in the pre-Glasnost era, was conversing with his new Israeli neighbor. "Tell me," asks the native Israeli, "I hear that the housing situation in Russia is abominable." Comes the laconic reply from the Russian immigrant, "Can't complain." Befuddled, the Israeli continues: "Well, what about the long lines to buy food?" Once again the terse answer, "Can't complain." By now perplexed, the Israeli tries one last time: "How about the lack of modern appliances?" A third time, "Can't complain." Explodes the Israeli: "Why the hell did you move here, then?" Comes the immediate retort: "Here, I can complain!"

30. Avraham Wolfensohn, *Ha'tanakh Ha-politi: Opposiziah Ba'mikrah* (Haifa: Halevanon, 1974), p. 86. Translation from the Hebrew is mine.

The Jewish political tradition, then, does not discriminate between social or political categories with regard to protest — whether the matter is a question of addressee or addressor. This becomes quite clear in what is arguably the Bible's strangest protest (and disobedience) story of all — as one of the protagonists is not even human. By using such an unusual medium, the Bible was indicating the importance of the message (Numbers, XXIII-XXIV).

Despite repeated beatings, Balaam's donkey protests to his master and refuses to continue on his way in the face of an angel blocking the road (which Balaam — a visionary, no less! — cannot see). Even the lowliest of creatures (how much more so when they are human) can see the dangers which lie in the path of those high and mighty who continue recklessly in their ways. And the Bible makes it clear that Balaam got the message, for that sort of warning to his master (King Balak) is delivered by Balaam in the story's continuation, as he refuses to curse the Children of Israel (thereby warning Balak not to attack them, "advice" which the latter reluctantly accepts).

Once again it is worth noting the ultimate beneficiary of protest as the Bible sees it in stories such as these. When public protest is legitimately called for, it usually succeeds not only because the protester is right but even more significantly because it is to the benefit of the protest addressee.

A good example of this — and the lengths to which the Jewish political tradition tolerated public protest — can be seen in one of the more unusual (probably unique in world annals) protest devices developed by the medieval Jewish community. It was customary in the High Middle Ages to permit any Jew to halt the prayer services in the synagogue (week-day, Sabbath, or holiday) and proclaim his grievance in front of the entire community. As an historian of medieval Judaism describes it:

This institution was known as the "stopping of the services." Whenever a person felt that he was wronged by a member of the community he would appear before the congregation assembled for prayer, "interrupt the prayers," "force the congregation to sit down," and not let the services resume until he was promised by the leaders of the community that legal action would be initiated on his behalf. . . . Sometimes, no doubt, the complaints of an individual were directed against the community itself, against its tax policy, its tax assessors, or its other officers. . . . [T]he custom to "stop the services" was resorted to with great frequency.<sup>31</sup>

Even "toleration" of public protest is not a strong enough term. When it came time to think through more thoroughly its attitude to the matter, the Jewish tradition prescribed a more forceful and positive ap-

31. Irving A. Agus, *The Heroic Age of Franco-German Jewry* (New York: Yeshiva University Press, 1969), p. 205. See also Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (Westport, Conn.: Greenwood Press, 1972; reprint of the 1924 edition), pp. 118-119, for the original halakhic source of this custom.

proach. Just a few of the Talmud's sayings should suffice to illustrate how strongly the "protest" norm had become:

Anyone who had the opportunity to protest to members of his family and didn't is caught on their account [Rashi explains: "punished for their sins"]. To members of his community, he is caught on their account. To the whole world, he is caught on the entire world's account.<sup>32</sup>

Rabbi Chanina said: the Temple was destroyed only because the Jews did not reprimand each other, as it is written — "their leaders were like rams, unable to find pasture." Just as a ram's head is next to the tail of his fellow ram, so too Israel in that generation put their faces into the ground and did not scold (face up to) each other.<sup>33</sup>

Rabbi [Rabbi Judah the Prince] says: which proper path should a man choose for himself? He should love to reprimand, for as long as there are reprimands in the world, blessings, good times, and satisfaction come to the world and evil is driven out of the world, as it says: "for those who scold, delight shall be given, and upon them shall come the blessing of the good."<sup>34</sup>

These three quotations serve aptly as a summing up of the Jewish tradition's view of protest. First, there is no distinction between private or public protest; it is not the addressee which is determinative but, rather, the behavior at fault. Thus, protest (on a public or political level) is equally as justified and/or commanded as is admonishment (on a personal or familial level).<sup>35</sup> Second, protest is seen as being something not only necessary but almost positive in its own right, as it ensures the continued proper functioning of the "good society." Third, the lack of public protest means not only that the leaders will continue to do evil (and suffer Divine punishment as a result) but that s/he who refuses to protest will suffer, too, because there is a collective responsibility involved.<sup>36</sup> In more earthy terms, the Jew is not merely a self-appointed public "busybody" due to some quaint psychological makeup, but, rather, is warned and commanded to be constantly on the lookout for wrongdoing — both public and private.

Fourth and finally (deriving from the first quotation especially), the protest drive should not, and cannot, be limited to the Jewish community

32. T.B. *Shabbat* 54b.

33. *Ibid.*, 119a.

34. T.B. *Tamid* 28a; Proverbs, XXIV:25. All of the above translations are mine.

35. There are some caveats to this. Most important among them: "Just as one is enjoined to speak out when he will be listened to, so he is enjoined not to speak out when he will not be listened to" (T.B. *Yevamot* 65b). However, as Norman Lamm points out, this rule is valid only when dealing with "*tikkun nefesh*" (private wrongdoings); if "*tikkun olam*" is involved, i.e., a public case of evil or injustice, then admonishment is required regardless of the addressee's response. See his "*Ho'kheyah To'khiah Et Amitekha*," in *Gesher* (New York: Student Organization of Yeshiva University, Rabbi Isaac Elchanan Seminary, 1985): 170-176.

36. The punishment, or type of suffering, may not necessarily be exactly the same. For example, in Ezekiel, XXXIII:8 one finds: "When I say to the sinner that he will die [for his sin], and you have not warned him to change his ways, he, the sinner, will die, but his blood will be on your head."

or polity alone. The usual dictum, "*kol Yisrael arevim zeh ba'zeh*" (all of Israel are guarantors of each other), is too limited in the protest context. The Jews are required to expand their horizons and stand guard, morally and politically, for the world as a whole.

### *Disobedience*

There is no dearth of examples in the Bible regarding disobedience.<sup>37</sup> However, whereas most of the argumentative cases are viewed in a distinctly positive light, most of the stories dealing with disobedience are displayed negatively. Disobedience *per se*, then, is not automatically legitimate. Obviously, much depends on the context and, even more importantly, on the reasons for such disobedience.

A run-through of the several "positive" cases makes clear that disobedience to authority is sanctioned when the specific directive of the leader transgresses natural or Divine law. The Egyptian midwives who refuse to kill all Hebrew male babies, the servants of King Saul who disobey his order to slay the priests aiding David, and Daniel publicly praying to God in the face of Darius' prohibition, are but some of the more notable examples of legitimate disobedience in the Bible.

Very interestingly, there are no recorded cases in the Bible of illegitimate disobedience to temporal authority. All of the examples of unacceptable disobedience involve God's commandments and/or directives (conversely and unsurprisingly, all of the legitimated cases deal with temporal authority, and not disobedience to God). The ensuing question is an intriguing one: does this suggest that disobedience to human rulers is normative in the Jewish tradition? Is the Bible suggesting here that temporal rule may be disregarded whenever the spirit moves the people?

As noted above, the answer is most surely negative. The precept of *dina de'malkhutah dina*, as well as other rabbinical aphorisms and warnings, are clear indications that the Jewish political tradition did not subscribe

37. The term "disobedience" in the Jewish political tradition is somewhat of a misnomer. To begin with, the Bible does not demand that the Jew "obey" his ruler (or God) but, rather, "hearken" to that authority. This is obviously a much milder form of prescriptive behavior (and not merely a matter of semantics), and, as such, indicates from the start that the normative relationship between ruler and ruled is not as authoritarian as might be supposed. We have already seen the source of such a perspective in the Covenant. Second, Jewish law does not have a separate category for "political disobedience." Rather, whether the intention was disobedience to a specific law or non-acceptance of the ruler's legitimacy, the term used is *mo'ed be'malkhut* (rebellious against the monarch and/or duly constituted authority). Here, too, it is not a matter of semantics but, rather, an indication that disobedience and rebellion are to be approached in similar normative fashion, this time rather negatively. We shall return to this point at the end of the section. See, for example, Maimonides, *Mishneh Torah: Sefer Melakhim*, III:8 — "Every one who rebels against a king of Israel, the king has the right to kill him even if the king ordered one of the people to go to a certain place and he did not do so. . . ." Clearly, this great commentator does not distinguish between "rebellion" and simple "disobedience."



to anarchy or even libertarianism. On the other hand, it was made clear that, in any confrontation between the directives of the positive law and the strictures of natural/Divine law, disobedience to the former is not merely suggested but mandated.<sup>38</sup>

Why, then, are there no examples in the Bible of illegitimate disobedience to the temporal ruler? Two reasons suggest themselves. First, it is obvious that the major thrust of the Biblical experience was to establish the supremacy of Yahweh over the Children of Israel. Here the battle was being fought on two fronts: against other gods (idol worship), and against the natural tendency (certainly in ancient times) to accept unhesitatingly the law of the State. From this perspective, it is reasonable to find that all the examples of political disobedience either delegitimize disobedience to God, or support disobedience against the human ruler in his conflict with God.

Second, and more mundanely, there most probably was, in fact, very little illegitimate public disobedience to a ruler's law or edict, as the cost (generally capital punishment) was wildly incommensurate with any possible benefit.<sup>39</sup> The penalty of death was almost automatic for the individual or group publicly transgressing the king's law; indeed, part of the Divine struggle for supremacy over the political hearts and minds of the Jewish people centered on the attempt to convince them that Divine retribution would be no less, and probably greater, in cost than that which any human ruler could exact.

Did the vastly different Diaspora situation change all of this? Here one has to differentiate between public disobedience to the local Jewish communal authorities and to the overarching gentile political authority. At first glance, it seems surprising to find that there was more disobedience to the latter than the former, considering the delicate and vulnerable political position in which the Jews usually found themselves, and in light of the great suffering which the gentile government could (and usually would not hesitate to) exact upon the Jews.

In light of our above two reasons, however, the matter seems less surprising. For one thing, cases of Jewish public disobedience to the sovereign power are to be found only when that authority issued edicts which contradicted the halakhah or went against the grain of strongly established Jewish custom. Here, there was no choice but to follow the dictates of religious conscience, publicly to support the supremacy of God and his

38. Interestingly enough, the same was not strictly true for any seeming contradiction between God's commandments as specified in the Bible and the later rabbinic rulings. On some occasions the latter took precedence over the former. For a wide-ranging analysis of this point see Roth, *Halakhic Process*, chapter 7.

39. Once again the distinction must be kept in mind between disobedience and rebellion. The latter vastly improves the "cost-benefit" equation because, in the case of successful rebellion there is no personal price to be paid, while the cost of failure is about the same as in public disobedience.

earthly Jewish representatives.<sup>40</sup> In addition, virtually all such examples of *kiddush ha'Shem* (the sanctification of the Lord's name) were communal in scope, i.e., the community as a whole disobeyed and suffered the consequences, lending a certain strength to the individual's sacrifice while certainly reinforcing the idea of public disobedience in such ultimate matters. Nor were all such instances of disobedience "crowned with failure." On numerous occasions the very unity of the community's stand prevented gentile punishment from being exacted and/or it successfully undercut the original edicts.

One such general example should suffice for our purposes:

On many occasions German kings and later on Polish governments tried to appoint rabbis, but without success. . . . These were direct acts of defiance based on the premise that the government had no jurisdiction in such matters and that any interference by the government was not lawful. . . . The principle demonstrated . . . the free spirit of the Jews who refused to capitulate to the capricious power of the state when that power acted unethically, illegally, or against their conscience.<sup>41</sup>

And here we have a case which is not strictly halakhic in character, but merely customary!

On the other hand, we find virtually no signs of public disobedience to the Jewish communal authorities, but for other reasons. First, anyone who wished to live Jewishly had little choice but to obey the Jewish leadership in all respects, given the great power (especially excommunication, and in some communities even capital punishment) which such authorities had. Banishment (not just from the specific community but from all Jewish communities) was tantamount to death all through the Middle Ages, as the feudal-corporate society had no place for "communitylessness." Disobedience, therefore, was short-circuited; any Jew not willing to accept the dictates of his local leaders would move to a neighboring Jewish community where he would be accepted fully (over time) — if s/he had

40. This is not to say that all Jews at all times followed this course. Huge numbers of Jews over the years converted (to Christianity especially) under the threat of death, and many did so somewhat voluntarily. From the standpoint of the development of Jewish political culture, however, most of these could not be influential as they had left the fold. Indeed, the only ones who did influence such a culture were the "Marranos" — those Jews who were forced to convert but continued to practice Judaism in secret. This group's contribution to Jewish political culture was the change from "public" to mass "quasi-secret" (but known to the Jews themselves) disobedience. Such Jews, while constituting an halakhic problem, were generally considered heroes by the people, and are certainly an historical source of Jewish pride in the contemporary period.

41. Leo Landman, "A Further Note on 'The Law of the Kingdom Is Law,'" *Jewish Journal of Sociology*, vol. 17, #1 (June, 1975): 40. This is a direct manifestation of the Jews' dual interpretation of the *dina de'malkhutah dina credo*. As Blidstein notes, there existed "a double resonance of 'the law of the kingdom': on the one hand, the Jewish community humbles itself before the sovereignty of its dominator; on the other hand, 'the law of the kingdom' (and the kingdom itself!) must be judged by the Jewish community before its will is obeyed." *Op. cit.*, p. 214.

not disobeyed the Jewish authorities in the original jurisdiction. Moreover, whenever the number of dissatisfied reached a certain level the “mitosis syndrome” set in, with the community splitting into one (or more) constituent parts, each establishing its own communal-political framework. Given such proscriptions and opportunities for avoiding a direct confrontation with the Jewish authorities, it is not altogether surprising that public disobedience was a rarity in the Diaspora (until the Emancipation period in the nineteenth century).

In sum, while political disobedience was fairly widespread (although far from being a constant) throughout Jewish history, the political tradition differentiated quite clearly between two types. Acceptable and legitimate disobedience was that which was directed against illegal and, especially, anti-halakhic edicts and laws promulgated by the temporal powers-that-be. Any other form of political disobedience was not countenanced by the tradition, and, indeed, after the Biblical era was rarely found. Public political disobedience, then, added to the general oppositionist approach of the Jewish heritage, but not as strongly as the previous two elements discussed — argumentativeness and protest. This was probably due to the fact that disobedience involves concrete action and not just verbal opposition. As such, it is a higher level form of oppositionism, not to mention more personally dangerous and politically corrosive. Thus, one can demarcate here a non-rigid line separating normative and unacceptable opposition. On the acceptable side lie the former two elements of argumentativeness and protest, while on the unacceptable side lie (in large part) the latter two elements of disobedience and rebellion.

### *Rebellion*

Interestingly, but unsurprisingly (given the Jews’ antipathy to centralized government), political rebellion is almost nonexistent in Jewish history until the Age of the Monarchy — and then the floodgates open wide. Only the rebellion of Korah and his clan against the authority of Moses is cited during this long earlier period, with the ultimate punishment being meted out to them all.<sup>42</sup>

In general, there seems to be some ambivalence in the Tanakh regarding the legitimacy of rebellion. On the one hand, no sympathy is shown when rebellion occurs for reasons of political self-aggrandizement (e.g., Avshalom against his father King David). However, when there are good moral/religious reasons for rebellion, the attitude becomes curiously neutral. Many such cases are crowned with success, and this is duly noted

42. Numbers, XVI:1-14. It might be worthwhile to consider the unstated implications of the lack of Jewish rebellion during their 210 year bondage to the Egyptians. In counterpoint, well over ten chapters are devoted to God’s successful attempt at terminating their position of slavery. The destruction or termination of constituted authority is best left in God’s hands, the Bible may be suggesting.

in the Bible. But there is little enthusiasm for such a state of affairs; one senses a great amount of reserve behind the simple fact-telling.

Indeed, there is a great amount of ambivalence within the entire Jewish political tradition to rebellion as a mode of oppositionist expression. This can be seen early on in the prophet Samuel's handling of the morally errant King Saul (whom Samuel himself had anointed). After several warnings regarding Saul's unacceptable behavior, Samuel anoints David as Saul's successor. But just as important is the fact that Samuel makes no overt attempt to topple Saul from the throne. In other words, there is here an act of delegitimation but no precedent for outright rebellion — and the earlier story of David cutting off a fragment of a sleeping Saul's garment signifies directly his unwillingness to rebel against the king — despite ample justification and ability to do so.<sup>43</sup>

The post-Biblical commentators seem to be equally ambivalent on the matter. Maimonides, one of the very few to develop something approaching a Jewish “political theory,” does not even directly address the issue. Indirectly, though, we can deduce from his writings a number of principles which make the matter clearer if not simpler.<sup>44</sup> First, a monarch who sins<sup>45</sup> will be punished (although it is not clear whether by human-constitutional or divine hand). Second, such a king loses his status normatively, and the people need not obey him. Third (and this is the other side of the coin), there is no orderly or constitutional process for actually deposing a wicked king.

A later commentator with even more practical political experience — Don Isaac Abravanel (royal adviser to the Spanish monarchs Ferdinand and Isabella) — takes much the same approach of studied ambiguity. He raises the question of whether there exists a civic duty to rebel and topple an evil Jewish king, and answers somewhat reservedly that “we have not found within the writings of our wise rabbis any justification for this”<sup>46</sup> — not a hard and fast declaration prohibiting it, by any means.<sup>47</sup>

The situation, then (especially with regard to the Maimonidean approach), is one of dangerous constitutional limbo, as the irresistible force

43. David's retort to Avishai's urging that he kill Saul is clear and straightforward: “For who can put forth his hand against the Lord's anointed, and be guiltless? ... As the Lord lives, He will smite him...” (I Samuel, XXVI:9-10)

44. The following three guiding principles are taken from Gerald J. Blidstein, *Ekronot Me'diniyim Be'mishnat Ha'Rambam* (Ramat Gan: Bar-Ilan University Press, 1983), pp. 75-83.

45. Maimonides, as well as all other commentators who address the issue, makes it abundantly clear that only through moral transgression does even a question of rebellion arise. In the event of simple incompetence or bad judgment, there is no justification for disobedience/rebellion.

46. Abravanel's commentary on Deuteronomy, XVII:15 (my translation).

47. Indeed, in his commentary on I Kings, XII:4, he expresses understanding of rebellion in such circumstances, although no claim is made by him for its legitimacy. Another commentator — the *Malbim* — agrees with this dual approach. See his discussion of the same verse.

of justified oppositionism clashes head-on with the immovable object of political order and security. We might parenthetically note here that it is only through this backdoor approach that a difference appears between the Jewish tradition's approach to disobedience and rebellion. At best, Judaism seems to come to rest at a tenuous equilibrium of "passive rebellion."

However, all of this is with regard to the monarchy — the "normative" and superior (because Divinely sanctioned) type of political system. What happens within a different sort of Jewish constitutional regime? Are the same halakhic restraints to hold there as well?<sup>48</sup> And, for that matter, is there any sort of halakhic justification for rebellion against a gentile ruler, a foreign regime? On these questions Jewish political philosophy is mostly mute, but not Jewish history.

Most relevant to our purpose here is the great rebellion against Rome, and especially its immediate aftermath. The reasons for the rebellion were understandable, and from a Jewish theological perspective even justifiable given the palpable threat to the very existence of the Jewish religion under Roman rule. We know, too, that such rabbinical luminaries as Rabbi Akivah actively supported the Bar-Kokhba rebellion some sixty years after the failure of the earlier revolt which ended in the destruction of the Second Temple. But the annihilation of Jewish society in *Erez Yisrael* (after the latter revolt was quashed too) took its toll. Henceforth, while not overtly proscribed, rebellion was not viewed as a desirable way of doing things in the Diaspora — even *in extremis* politically or religiously.<sup>49</sup>

While rebellion as a distinct form of oppositionist expression fell into

48. The problem was that, once the Second Temple was destroyed, the halakhah did not envision any possibility of restoring Jewish sovereignty within *Erez Yisrael* short of the Messianic Age when the monarchy, too, would be reestablished. From a strictly halakhic standpoint, therefore, the modern State of Israel presents a *novum* and a theological *tabula rasa* for which it was not prepared. For some, indeed, it is halakhically illegitimate.

49. Not all the rabbis agreed with Rabbi Akivah's approach, and one can find some interesting clues as to the shift in thinking in this regard. Perhaps the most interesting such sign can be found in the *Haftorah* reading (after the Biblical portion of the week) for the Sabbath on which the festival of *Chanukah* falls. Of all the readings available, the rabbis chose one which has the following famous line: "*Lo be'hayil ve'lo be'koah ella be'ruhi amar Adonai Ze'vaot*" (not with armies and not with force [can Israel vanquish its enemies] but only through my spirit sayeth God). At first glance, this is an incredibly inappropriate reading for a holiday which celebrates the military victory of the Maccabees over the Hellenizers. But, in truth, it was meant to be inapt, so as to transmit the not so subtle message that henceforth (and even in the days of the Maccabees) it is only God's might (and right) which can lift the oppressive yoke from the Jewish people. From this perspective, we can also now understand the rabbis' otherwise very surprising decision not to include the *Book of the Maccabees* in the canon, nor *Judith* — two of the outstanding apocryphal works highlighting Jewish military courage and physical fortitude in public acts of rebellion. For a more in-depth analysis of these points see my "Can the People of the Book Live by the Sword?" *Response* (Fall 1975): 49-66, or its revised version, "Israel: Between the Book and the Sword," *Midstream*, vol. 35, #1 (Jan. 1989): 15-19.

desuetude over the long Diaspora period, the general spirit of such ultimate oppositionism did not disappear. Indeed, as we have just seen, there were certainly enough “holes,” there existed enough ambiguity in the matter, to enable a much later — and from an *halakhic* perspective, a much more lax — segment of the Jewish people to pick up where their much earlier “rebellious” ancestors had left off.

Once the era of Jewish Emancipation commences, i.e., once the social, political, and economic barriers to unfettered Jewish self-expression are abolished, we begin to find the Jews in the forefront of radical-revolutionary politics throughout Europe.<sup>50</sup> As a contemporary nineteenth century Socialist radical wrote in the midst of the revolutionary cauldron:

Every iconoclastic incident, every convulsion, every social challenge has seen, and still sees, Jews in the front line. Whenever a peremptory demand or a clean sweep is made, wherever the idea of governmental metamorphosis is to be translated into action with frenzied zeal, Jews have been the leaders.<sup>51</sup>

We may discount the hyperbole here, but not the underlying truth behind his description.

In short, through close to eighteen centuries of living relatively powerlessly in Diaspora, subject to the vagaries and whims of the gentile world, the European Jew emerges in the nineteenth century with his revolutionary (and general oppositionist) *weltanschauung* intact, despite having had to dampen its more overt political and physical manifestations over the previous generations. One can speculate as to whether this lengthy self-repression was, or was not, a major factor in the Jewish explosion of rebellion at the end, once the socio-political lid was finally lifted.

50. Certainly not every Jew was a firebrand. The vast majority, most of whom lived in non-emancipated Central and Eastern Europe, were distinctly non-political, as they had been for centuries. On the other hand, some of the Jewish oppositionist activity was directed against the Jewish establishment — here again an imitation of the Jews' political behavior in an earlier epoch.

51. Cited in Robert S. Wistrich, *Revolutionary Jews From Marx to Trotsky* (London: George G. Harrap & Co., 1976), p. 1. See, too, Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*, E. and C. Paul, tr. (New York: The Free Press, 1962), p. 260, for a similar contemporary analysis. To be fair, though, Wistrich decidedly disagrees with my analysis as to the origins or causes of this political iconoclasm. He contends that, rather than the Socialist revolutionaries constituting a continuation of the Jews' political culture of Prophetic Messianism and Utopianism, the source of their behavior lay in their Jewish self-hatred and frustrated desire to assimilate fully into European society (pp. 3-22). While there is more than a kernel of truth to this, the question still remains as to why so many took the revolutionary route, as opposed to the more traditional assimilationist approach — conversion. That so many chose to stand out even farther as the “other” in European society through their highly public oppositionism, leads one to believe that the opposite of escape from their cultural past was at work here. See Wolfensohn, *Op. cit.*, pp. 13-17, for additional quotations from several such revolutionaries who make the direct cultural connection to the Jewish heritage.

ed. In any case, there can be no denying that many such “freed” Jews picked up where their forebears had left off seventeen hundred years earlier. The basic rebellious thrust — and arguably the underlying values and principles — were mostly the same, even if the terminology and strategy had taken on an entirely different coloration. In some deep and fundamental respect, there was little separating the Isaiahs and Bar-Kokhbas of yesteryear from the Marxes and Trotskys of the modern age.<sup>52</sup>

*Conclusion: Oppositionism and Survival*

It should be clear by now that the Jewish heritage is replete with examples and elements of “oppositionism.” But to what purpose? Why should a religion based ostensibly on obedience to authority (Divine or political), encourage to such a large extent the very opposite?

The initial quotation from Cecil Roth suggests the answer. Whereas all other civilizations — far more powerful in their heyday — have long since vanished from the face of the Earth, only the Jewish “civilization” continues to flourish in vibrant fashion. Why? Precisely because the oppositionist ethic was expressed not only externally (as Roth thought), but internally as well, i.e., the Jewish “system” (religious, social, political, etc.) was never afforded the internal peace from self-questioning which would have ultimately led to stagnation and the inability to adapt to a changing environment. In short, over the long run and despite the short-term turmoil which it engenders, oppositionism is a national characteristic of supreme survival value for its carrier.

And, one might add, for the world at large as well. It is no coincidence, nor is it a matter of “racial superiority,” that the Jews constituted the vanguard of virtually all modern intellectual revolutions and politically revolutionary movements — certainly proportionally far in excess of their numbers in the general population.<sup>53</sup> The famous troika of Marx,

52. In addition to the “oppositionist” parallel, there are other ideological connections as well. It is interesting to note that Marx himself emerged from a family with a long bloodline of notable rabbis. He was directly descended, on his mother’s side, from the illustrious commentator Rashi and, on his father’s side, from the no less famous Maharal of Prague. Of course, biology does not altogether determine intellectual destiny, but it is rather obvious that Marxist Socialism is quite similar in its value system to the Jewish aspiration for social justice and concern for the downtrodden as expounded in the Bible, especially by the Prophets. Marx may have been an atheist, but in his values he was a Jewish atheist — developing a system shorn of God and any vestige of formal religion, but ideologically still linked to the Jewish heritage. See, for example, Michael Walzer, *Exodus and Revolution* (New York: Basic Books, 1985), where he argues that “it is possible to trace a continuous history from the Exodus to the radical politics of our own time” (p. 25).

53. For a list of nineteenth century Jewish Socialist radicals, see Wistrich, *Revolutionary Jews . . .*, p. 2. A “short” list would include: Marx, Lassalle, Singer, Bernstein, Luxemburg, Haase, Landsberg, Eisner, V. and F. Adler, Bauer, Trotsky, Sverdlov, Kamenev, Zinoviev, Radek, Medem, Kremer, etc., etc.



Freud, and Einstein,<sup>54</sup> was but the tip of the modern, intellectually oppositionist, iceberg. As Roth put it (not completely flatteringly):

Nearly all the most penetrating critics, literary and musical and artistic, are Jews. By their questioning of existing political and economic institutions, rather than by their positive contributions (sic),<sup>55</sup> they contributed materially to the upbuilding of the new world which came into being after the Napoleonic wars.<sup>56</sup>

In the final analysis, then, it has been the Jewish people's penchant for being "stiff-necked" which has ensured that their national life would be more difficult — both externally, as troublemakers and shakers of the world's conventional wisdom, and internally, through constant disagreement and mutual division. However, it is precisely such an ethos which has also guaranteed the Jews a permanency not granted to others — a result of their cultural flexibility and adaptability to the vagaries and exigencies of the ongoing historical challenges facing them from within and without.

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54. Arguably, only Darwin constitutes a gentile exception to this small circle of modern Jewish "wisdom shatterers."

55. It is hard to understand what Roth had in mind here regarding the lack of "positive" contributions. To take but one (neutral and gentile) yardstick, the Nobel Prizes are awarded for pathbreaking, positive discoveries and contributions. From 1901 through 1986, fully 18% of all award recipients were Jews, whereas their proportion of the world's population was always well below 0.5% during this century. See Raphael Patai, *The Jewish Mind* (New York: Charles Scribner's Sons, 1977), pp. 287-371, for a discussion of the racial, environmental and cultural sources of Jewish achievements.

56. Roth, *Personalities and Events*, p. 75.

# God Versus Man in a Classic Jewish Joke

RICHARD RASKIN

Yossel stops in at Rabinovitch's shop and orders a pair of pants from him.

— "But it's on one condition: that you deliver the pants to me tomorrow evening. I need them; I'm about to set out on a trip. Otherwise I'll go to Hirschberg."

— "Count on me. I give you my word of honor that you will have them tomorrow evening."

But Rabinovitch is lazy and forgets his customer's order. Two years later, he remembers, hurriedly makes the pants and rushes off to deliver them. Yossel looks very displeased:

— "Rabinovitch, you're some tailor! It takes you two years to make a pair of pants, while God needed only six days to create the world!"

— "Yossel, please, don't compare me to God: take a look at the world and just look at these pants!"

Raymond Geiger, *Nouvelles histoires juives* (Paris: NRF, 1925), p. 117; my translation.

## *The History and Variants of the Joke*

### *1. The joke in its original form*

Presumably of East European origin — though only its flavor, rather than concrete evidence, points in that direction — this is one of the few classic Jewish jokes whose circulation in the West began in France, where it appeared in print for the first time in the mid 1920's as shown above. Although jokes often appear in a somewhat rudimentary form the first time they are in print, this story was fully elaborated from the very beginning, and its original publication is as complete an expression as can be found of the principal and most satisfying form that it has taken.

Here the joke begins and ends with a dialogue, contains a broken promise, and concludes with a statement accompanied by a gesture. In none of the other forms of this story is the symmetry as complete, the punch line as well prepared, or the same sense of closure provided at the end.

As it happens, the only other pure example of this original story is also French:

Moshe stops in at the shop of Levy, his tailor.

— "I need a pair of pants, but it's urgent! I must have them tomorrow evening. Can you do it?"

— "Of course! What a miserable tailor I would be if I couldn't produce a pair of pants within twenty-four hours . . . Trust me: tomorrow evening they'll be ready!"

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But the tailor is not really up to it and he has a lot of other things on his mind. He completely forgets about the pants. Six months later, he suddenly remembers, does the job and brings the pants to Moshe.

— “Levy, Levy — you’re incredible! You promise me a pair of pants for the next day and you show up with them six months later! Don’t you think they took a little long? And tell me: how can you take six months to make a pair of pants when God took only six days to create the world?”

— “Moshe, please. How can you compare me to God? Just look at the world! And look at these pants!”<sup>1</sup>

Here, again, the punch line contains no explicitly evaluative words regarding either the world or the pants, thereby leaving it entirely up to the reader to grasp what the tailor means. Much of the charm of the joke results from by-passing *explicit* valuation, and some of that charm is lost in otherwise faithful retellings of the joke when references are made to “this phooey world” (Asimov, 1972) or to “the mess God made” and these “beautiful,” “gorgeous,” or “lovely” trousers (Ausubel, 1948; Spalding, 1969; Marks, 1985).

## 2. *The original form abbreviated (1927)*

When another early French edition of Jewish jokes was planned around drawings to be made by Arthur Szyk, the initial dialogue was left out, thereby omitting the customer’s requirement and tailor’s promise of almost immediate delivery. The joke still “works” but with far less strength:

### JUSTIFICATION

— “What? God took six days to create the world and it took you four weeks to make a pair of pants?”

— “That’s quite true. But then again, look at the world — and just look at these pants!”<sup>2</sup>

## 3. *Two future-tense variants*

As the story appears in some anthologies, it is while the customer is still waiting interminably that he complains to the tailor. In this form, the joke appeared for the first time in Vienna in 1933:

A man orders a suit from a tailor, who delays doing the work for weeks on end and continues putting his customer off from one day to the next. When the customer’s patience finally runs out, he says to the tailor: “God created the world in six days, while you take weeks and weeks to make a suit!” — “Yes,” replied the tailor, “but what does the world look like and how is your suit going to look!”<sup>3</sup>

1. *Popeck raconte les meilleures histoires de l’humour juif* (Paris: Mengès, 1978), p. 19; reprinted in *Encyclopédie internationale du rire* (Paris: Mengès, 1981), p. 197; my translation.

2. Arthur Szyk, *Le juif qui rit*, 2e série (Paris: Albin Michel, 1927), p. 217; my translation.

3. J. Kreppel, *Wie der Jude lacht* (Vienna: Verlag “Das Buch,” 1933), p. 2; my translation. Other examples of this variant are found in anthologies by Adam (1966), Rosten (1970), Aleksandrowicz (1975) and Koplev (1988). The joke is also told in this form, though

Here, not only is the initial dialogue omitted, but also the tailor's finished product. Consequently, the reader has less to visualize and savor, and the joke provides a weaker form of closure.

There is another variant which also ends without the tailor proudly pointing to the product of his labor when the punch line is delivered. In this case, what had formerly been the initial and final dialogues are both rolled into one:

Harry had heard of a tailor who was supposed to be a genius. A business associate who recommended him certainly wore good-looking suits. So Harry went downtown to see the man.

— "Sure I can make a suit for you, mister. But it'll take me thirty days."

— "Thirty days!" cried Harry in dismay. "Why it only took God six days to make the entire universe!"

— "Nu," shrugged the tailor, "and look at what he turned out."<sup>4</sup>

#### 4. *The returning visitor variant*

In yet another version of the narrative — this one found in the earliest American publication of the joke — the customer is a visitor to the town in which the tailor lives. Once again, the initial dialogue is absent and the joke correspondingly poorer:

##### A BOTCH VERSUS A MASTERPIECE

A wealthy Jewish merchant from Berlin came to a small Galician town on business and ordered a pair of trousers from a local tailor. The merchant remained in the town for two weeks but his trousers were still not ready.

Two years later, business again brought the merchant to the same town.

This time the tailor delivered the trousers.

"That's certainly strange," remarked the merchant. "God created the whole world in six days but it took you two years to turn out one pair of trousers."

"Pardon me," said the tailor, "your comparison is not a good one. Look carefully at the world and then look at these trousers."<sup>5</sup>

#### 5. *The second punch line variant*

As mentioned earlier, much of the charm of the original story stems from a punch line in which essentials are left unspoken, and the joke is somewhat weakened when anthologists add remarks about "the mess God made" and the "beautiful" trousers, as though they were afraid that the reader might not otherwise get the point.

with more elaborate embroidery, by the character Nagg in Samuel Beckett's play, *Fin de partie* (1957); here the tailor is identified as an Englishman, with no ethnic tagging.

4. Henry B. Berman, *Have I Got a Joke for You* (New York: Hart, 1975), p. 154. The joke is also found in Simon R. Pollack, *Jewish Wit for All Occasions* (New York: A. & W. Publishers, 1979), p. 154 — the Berman and Pollack books being identical in every respect except for the author's name and the title of the book.

5. S. Felix Mendelsohn, *The Jew Laughs* (Chicago: L.M. Stein, 1935), p. 31.

However, these minor additions are nothing compared to the version of this joke in one anthology, where the story continues beyond its original punch line, diligently spelling out everything that should have remained unspoken, and finally ending with a second — or pseudo — punch line that is utterly anticlimactic:

“So you’ve brought me my Passover clothes at last,” the rich man barked at the perspiring tailor. “It certainly took you long enough! Here it is almost the eve of Passover and I was beginning to wonder if I would have to appear in *shul* in my old clothes. Don’t stand at the door! Spread them out and let me see what sort of job you’ve done. I have to have things just right, you know.”

Carefully the rich man examined the coat, the trousers, the vest. He was pleased, and his manner relented.

“If only you didn’t take so long,” he said in a softer voice. “The good Lord, you know,” he continued with a patronizing smile, “took only six days to make this great big world of ours, and you it took two weeks to make a suit of clothes.”

“Ah,” said the tailor, “but look at my work, and look at the work of the Lord! Everything I have done is just right, the workmanship is without a flaw, the fit is perfect. But this world we live in! It’s full of blemishes. I know that the holy books tell us the Almighty left the world imperfect on purpose. His desire is that we who live on it should finish and perfect it. Still, why must there be so much suffering in this world? So much cruelty? Why must His people Israel have to endure such a long and bitter exile? And I ask you further, why must there be so many poor people who don’t deserve their poverty and so many rich who don’t deserve their riches? You know what I think?” he concluded, looking hard at his customer, “I think the Almighty could have taken a little more time, just a little more time.”<sup>6</sup>

The source of this additional punch line is, undoubtedly, the title Ausubel had given this joke in his anthology: “He should have taken more time.” Learsi used as his title, “Just a little more time.” In the Adler anthology the original punch line is eclipsed by a second one, that version of the joke ending this way:

“That’s true,” replied the tailor, “but look at my suit of clothes and look at this world. Don’t you think the good Lord could have taken another week?”

### *Competing Jewish Conceptions of Man’s Relationship to God*

In order to appreciate this joke<sup>7</sup> within its cultural matrix, it is essential to consider two radically different religious norms regarding the attitude required of man in his relationship to God. The reader is asked to bear with me for momentarily leading the discussion away from the joke itself.

6. Rufus Learsi, *Filled with Laughter* (New York and London: Thomas Yoseloff, 1961), pp. 196-197. Generally, Learsi is an excellent story-teller.

7. All references to the story from this point on will be to the joke in its original form, as represented in Geiger (1925) and Popeck (1978/81).

*1. Worshipful reverence*

One Jewish conception of man's relationship to God involves the view that man must be submissive and assume a posture of worshipful reverence. Nowhere in the Jewish tradition is this norm put forward more forcefully than in the Book of Job, written principally to undercut the view (placed in the mouths of Job's "comforters") that suffering is always merited. In this remarkable work, Job calls out to God for an explanation as to why he has been afflicted with one terrible misfortune after another. In speaking to Job from a whirlwind, God does not reply to Job's question, but, rather, brings him to the realization that man is too insignificant a creature to understand the order of the world. "Where were you when I laid the foundations of the earth?" God derisively asks: "Declare if you have understanding" (38:4). Repeatedly, God confronts Job with such humbling questions as:

"Have you entered into the springs of the sea? or have you walked in the recesses of the deep? Have the gates of death been opened unto you? or have you seen the doors of the shadow of death? Have you perceived the breadth of the earth? declare if you know it all" (38:16-18).

"Can you lift up your voice to the clouds, that abundance of waters may cover you? Can you send lightnings, that they may go, and say to you, Here we are? Who has put wisdom in the inward parts? or has given understanding to the heart? (38:34-36).

"Does the hawk fly by your wisdom, and stretch her wings to the south? Does the eagle mount up at your command, and make her nest on high?" (39:27-28)

Having compelled Job in this way to recognize that the human mind cannot fathom the wonders of creation or the order of the universe. God speaks again, referring to Job's questioning of Divine justice, and the following dialogue ensues:

"Shall he that contends with the Almighty instruct him? he that reproves God, let him answer it."

Then Job answered the Lord, and said, "Behold, I am vile; what shall I answer You? I will lay my hand upon my mouth. Once have I spoken; but I will not answer: yea, twice; but I will proceed no further."

Then answered the Lord unto Job out of the whirlwind, and said, "Gird up your loins now like a man: I will demand of you, and do you declare unto Me. Will you also disannul My judgment? Will you condemn Me, that you may be righteous? (40:2-8)

In his study of Job, Robert Gordis wrote: "The natural world, though it is beyond man's ken, reveals to him its beauty and order. It is therefore reasonable for man to believe that the universe also exhibits a moral order with pattern and meaning, though it is beyond man's power fully to comprehend. Who, then, is Job, to reprove God and dispute with Him?"<sup>8</sup>

8. *The Book of God and Man. A Study of Job* (Chicago and London: University of Chicago Press, 1978; originally published 1965), p. 297.

While the Book of Job is unique in other respects, it is representative of one mainstream within Jewish thought, insofar as it affirms that the order of the universe lies beyond the scope of human understanding, and any questioning of God's work is a presumptuous act, to be repented "in dust and ashes" (42:6).

## 2. *Man as God's equal*

Another current within Jewish thought emphasizes that man's status in relation to God is that of an equal — in some ways, even a superior — partner in the ongoing process of creation; and that man has every right to question, judge and condemn God over the issue of injustice in the world. This alternate and more radical current in Judaism will be illustrated briefly with reference to three issues that are relevant to the joke at hand.

### a. the superiority of man's workmanship

When Rabbi Akiba was asked by the Roman governor of Judea, Tineius Rufus, "Are the works of God more beautiful than those of flesh-and-blood?" Akiba answered that human art is superior — obviously not in areas that lie beyond the scope of human activity, but in the sphere of things within man's reach. The rabbi argued as follows:

Bring me ears of grain and loaves of bread. Then he said to him, "Those (ears of grain) are the work of God, and these (loaves of bread) are the work of flesh-and-blood. Are they not more beautiful? Bring me hanks of flax and linens from Beth Shean! Those are the work of God and these are the work of flesh-and-blood. These are more beautiful."<sup>9</sup>

In a book devoted to the Jewish conception of man as God's partner — perpetually "co-author and co-responsible for creation" along with God — Paul Giniewski commented on Akiba's courageous reply to Rufus, stating that Judaism views the world as "an arena open to the spirit of human enterprise, and where the work of man is more beautiful even than that of God, since God willed it to be so."<sup>10</sup> In this way, man's fulfillment of his own potential, through the exercise of his skills, is seen as a process of completing and perfecting the work of God — even to the point of surpassing it in beauty.

9. *Midrash Tanhuma Tazria*, in Hans Bietenhard's edition of *Midrasch Tanhuma*, B.R. *Tanhuma über die Tora genannt Midrasch Jalammedenu* (Bern: Peter Lang, 1982), vol. 2, p. 56; my literal translation from the German. Akiba had sensed correctly that Rufus was trying to lay a trap for him with respect to the question of circumcision, and answered accordingly. However, the portion of his argument cited above was no mere tactic. Though they were friends at the time of this discussion, Rufus was to sentence Akiba to death and supervise his execution many years later. My source of information on Akiba is Louis Finkelstein's *Akiba. Scholar, Saint and Martyr* (New York: Atheneum, 1970).

10. Paul Giniewski, *Les complices de Dieu* (Neuchâtel: A la baconnière, 1963), p. 136; my translation.



b. the independence of human judgment

It is told in the Talmud that Rabbi Eliezer argued about a question of ritual purity with the majority of his colleagues on the Sanhedrin (rabbinical High Court). Unable to convince them of his point of view, yet certain that he was right, Eliezer said that if the halakhah (religious law) was on his side, then let the carob-tree prove it. Immediately the carob-tree uprooted itself, to which the rabbi's colleagues replied, "No proof can be brought from a carob-tree." Eliezer then said, "If the halakhah agrees with me, let the stream prove it," and the waters of the stream flowed backwards. Still his colleagues remained unimpressed, as they did when he called upon the walls of the schoolhouse to prove that he was right and the walls leaned over. Finally Eliezer called out:

"If the halakhah agrees with me, let it be proved from Heaven!" Whereupon a Heavenly Voice cried out: "Why do ye dispute with R. Eliezer, seeing that in all matters the halakhah agrees with him!" But R. Joshua arose and exclaimed: "It is not in Heaven." What did he mean by this? — Said R. Jeremiah: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because You have long since written in the Torah at Mount Sinai, *After the majority must one incline*.

In other words, once the Torah has been given to man, all questions of interpretation are to be settled by a majority of the Sanhedrin, without celestial interference! The best part of this story is yet to come, and concerns God's reported response to the rabbis' rejection of His intervention in this matter of interpretation. According to the Talmud, the prophet Elijah happened to be with God in heaven at the time of the dispute. After the prophet had returned to earth,

R. Nathan met Elijah and asked him: "What did the Holy One, Blessed be He, do in that hour?" — "He laughed (with joy)," he replied, saying, 'My sons have defeated Me.'<sup>11</sup>

Here, God is conceived of as delighting in man's independence, even to the point of enjoying the rabbis' refusal of His participation in their decision.

c. challenging and judging God

In one of the most remarkable passages of the Torah, in which Abraham is informed of God's plan to destroy Sodom, the patriarch presumes to ask, "Will You also destroy the righteous with the wicked?" and then continues:

11. *Baba Mezi'a* 59b, in the volume devoted to this book in *The Babylonian Talmud*, ed. Rabbi Dr. I. Epstein (London: Soncino Press, 1935), pp. 352-353. More ample commentary on this passage will be found in the volume devoted to *Baba Mezi'a* in *The Talmud* (Jerusalem and Tel Aviv: El-Am, 1969), pp. 180-182. It is also discussed by Immanuel Olsvanger in *Contentions with God. A Study in Jewish Folklore* (Cape Town: T. Maskew Miller, 1921), p. 14, and by Erich Fromm in *You Shall Be as Gods. A Radical Interpretation of the Old Testament and Its Tradition* (New York: Holt, Rinehart & Winston, 1966), pp. 77-79.

“Perhaps there may be fifty righteous within the city: will You also destroy and not spare the place for the fifty righteous that are within? That be far from You to do after this manner, to slay the righteous with the wicked: and that the righteous should be as the wicked, that be far from You: Shall not the Judge of all the earth do right?” And the Lord said, “If I find in Sodom fifty righteous within the city, then I will spare all the place for their sakes” (Genesis 18:23-33).

Abraham continues in this manner until God agrees to spare Sodom if there are forty five, forty, thirty, twenty, or even ten righteous souls within the city.

In commenting on this passage, Erich Fromm wrote:

In courteous language, yet with the daring of a hero, Abraham challenges God to comply with the principles of justice. His is not the attitude of a meek supplicant but that of the proud man who has a right to demand that God uphold the principle of justice.

For Fromm, this daring to challenge God is representative of the “radical humanist” current within Judaism, in which “man becomes God’s partner and almost his equal.”<sup>12</sup>

In essentially the same spirit, a number of Hasidic stories deal with injustice in the world as a failure on God’s part to live up to his contractual responsibilities to man. One such tale involves a humble tailor who strikes a bargain with God on Yom Kippur, the solemn Day of Atonement, for sins committed during the past year. The “Berditchever” in this story is Rabbi Levi Yizhok of Berditchev (c. 1740-1810) who was noted for his kindness:

After Yom Kippur the Berditchever called over a tailor and asked him to relate his argument with God on the day before. The tailor said: “I declared to God: You wish me to repent of my sins, but I have committed only minor offenses; I may have kept left-over cloth, or I may have eaten in a non-Jewish home, where I worked, without washing my hands.

“But You, O Lord, have committed grievous sins: You have taken away babies from their mothers, and mothers from their babies. Let us be quits: may You forgive me, and I will forgive You.”

Said the Berditchever: “Why did you let God off so easily? You might have forced Him to redeem all of Israel!”<sup>13</sup>

At times, this outlook led to its ultimate consequence: the convening of a *Din Torah*, or rabbinical court, in order to place God on trial for the unmerited suffering of his subjects. If, after weighing the evidence, the

12. *Op. cit.*, pp. 28 and 47.

13. Louis I. Newman, *The Hasidic Anthology* (New York: Schocken, 1975; originally published in 1934), p. 57. The same story is found in Nathan Ausubel, *Treasury of Jewish Folklore* (New York: Crown, 1948), pp. 160-161. In a Yiddish folktale entitled “Berel the Tailor,” Isaac Loeb Peretz told the story of a little tailor who is ready to summon God to a rabbinical court, and whose boycotting of a Yom Kippur service — held by Rabbi Levi Yizhok of Berditchev — results, with the rabbi’s aid, in God giving in to the tailor’s demand that God forgive the sins of man against man, as well as those between man and God.

rabbis found God guilty, they might instruct him to put an end to famine,<sup>14</sup> or to cause the miraculous withdrawal of an oppressive edict that had been issued by the Austrian emperor, in the very hour when the verdict against God was handed down.<sup>15</sup>

Such trials were also held during the Holocaust. Elie Wiesel was present at one of them, while imprisoned in a concentration camp. He wrote: "... inside the kingdom of night, I witnessed a strange tribunal. Three rabbis — all erudite and pious men — decided one winter evening to indict God for allowing his children to be massacred."<sup>16</sup> Another commentator, Eliezer Berkovits, told of a *Din Torah* held in the ghetto of Lodz in 1943, after twenty-two thousand Jews had been sent off to a concentration camp, and God was called upon by the rabbinical court to stop the undeserved punishment. Berkovits added: "It is the very reality of the relationship, the intimacy between the partners of the covenant, that not only allows but, at times, requires the Jew to contend with the divine 'Thou.'"<sup>17</sup>

For some believers, the conclusion to be drawn in the face of the unrelenting massacre was to pass a bitter sentence against God. In a moving Yiddish poem by Itzik Manger (1901-1969), entitled "The Lovers of Israel in the Death Camp Belshitz," God is called to account for the "heaps of ashes on the ground," as a result of His not having "guarded His vineyard." The poem concludes as follows:

Reb Meir of Przemysl leaning on his heavy stick,

Waits, feverish with pain:

"Friends, let us all lift our voices, and repeat in refrain:

'Creator of the worlds, You are mighty and terrible beyond all doubt.

But from the circle of true lovers of Israel, we Galicians,

Forever shut You out!"<sup>18</sup>

### *Two Interpretations of the Joke*

When the tailor says: "How can you compare me to God? Just look at the world! And look at these pants!" there are two radically different attitudes that we may hold toward his statement, each of those attitudes

14. This was the outcome of a tribunal convened by Arye Leib of Shpole (or Spola), who died in 1811. An account of this trial is given by Elie Wiesel in *Souls on Fire. Portraits and Legends of Hasidic Masters* (New York: Vintage Books, 1973), p. 47.

15. For accounts of this legendary trial, see Martin Buber, *Tales of the Hasidim. Early Masters* (New York: Schocken Books, 1961; originally published in 1947), pp. 258-259; and Louis I. Newman, *Hasidic Anthology*, pp. 58-59.

16. Elie Wiesel, *The Trial of God (as it was held on February 25, 1649, in Shamgorod). A Play in Three Acts*, translated by Marion Wiesel (New York: Random House, 1979). The quotation is from the introductory section entitled "The Scene," and explains the genesis of the play.

17. Eliezer Berkovits, *With God in Hell. Judaism in the Ghettos and Concentration Camps* (New York and London: Sanhedrin Press, 1979), pp. 127-28.

18. *An Anthology of Yiddish Literature*, edited by Joseph Leftwich (The Hague and Paris: Mouton, 1974), p. 282.

in turn resting on assumptions as to why he speaks as he does and whether or not his remarks about God violate cultural prescriptions. I will try to outline concisely each of the two possible readings of the joke.

### 1. *Tactical manoeuvre*

The tailor can be seen as a businessman who has broken a promise, risks losing a sale and a customer, and finds himself subjected to an elaborate reproach, against which any defense seems unimaginable.

With this in mind, we can easily see his statement in the punch line as a tactical manoeuvre designed to help him to complete the business transaction by promoting the virtues of his merchandise while at the same time enabling him to gain the upper hand in his relationship with an indignant customer. In this perspective, the salesmanship and face-saving properties of the remark discredit it in our eyes. We see through it for what it is: namely, a pseudo-philosophical posture used by a clever operator who knows how to turn an unfavorable situation to his own advantage.

However, it is not only in its shrewdness as a ploy that the tailor's remark strikes us as funny; it is also comically deviant with respect to the religious norm requiring of man an attitude of worshipful reverence toward God (as illustrated above in relation to the Book of Job). In this respect, the tailor's remark — brushing off the comparison with God as though it were an insult to the tailor! — comes across as outrageously arrogant. When the joke is understood in this perspective, we are, therefore, implicitly invited to view the statement made in the punch line as ludicrous and deplorable in its lack of respect for God, just as it is clever in a purely tactical sense.

### 2. *Exemplary deviance*

When viewed in another perspective, this joke can be understood as implicitly inviting us to applaud the tailor's outlook — whether his "Just look at the world!" is taken as a comment on God's workmanship or as a tacit indictment of God for allowing injustice to flourish. In either case, the tailor's remarks are still deviant with respect to the norm requiring an attitude of worshipful reverence; only now, a positive value is ascribed to that deviance, which is held out to us as commendable.

In other words, the joke can be understood from a standpoint located in the more radical current of Judaism — the current affirming: a) the superiority of man's workmanship; b) the independence of human judgment; and c) man's right to challenge and judge God (as illustrated above).

When the joke is viewed in this perspective, the tailor's remark, about the relative merits of his own work and that of God, is presented to us as utterly sincere and as rich in resonances, which connect particularly with

the historical experience of the Jewish people. The very words, "Look at the world," are reminiscent of two Yiddish proverbs which implicitly deplore the injustice God allows to prevail in the world: "'The world goes on its ancient way' — that's just why it looks the way it does!" and "Ruler of the Universe: look down from heaven and take a look, for yourself, at your world!"<sup>19</sup> What is left unspoken in the tailor's words, "Look at the world," could fill a library. And, needless to say, what is alluded to in these words has deeply tragic dimensions.

This highly indirect evocation of the tragic within the framework of a joke is in itself a sign that the joke is, to some degree, a means for sharing a moment of recognition of this somber side of human life — and also for sharing a sense that that aspect of our existence does not prevent us from engaging in a playful interaction concerning it.

Furthermore, immediately following the tacit evocation of adversity, the joke points to something which can be seen as one way of making up, in part, for the unfavorable conditions of existence, on a modest — even a comically modest — scale: namely, the pants of which the tailor is so proud, and which might symbolize mastery and accomplishment in an area of life over which the individual can maintain full control, no matter what is going on in the world at large.

In these respects, a pessimistic picture of the world is taken as a springboard for affirming nothing less than the ascendancy of the human spirit in the face of adversity. How apt it was for Israel Knox to describe Jewish humor as often embodying a sense of "tragic optimism."<sup>20</sup>

### *On the Open-Endedness of the Joke: A Reversible Figure*

As I have tried to show, the punch line of this joke can be understood in two very different ways: 1) as a pseudo-philosophical posture designed to promote the successful conclusion of a business transaction, and which is comical in both its shiftiness and its arrogance; and 2) as an admirable affirmation that the fruits of human labor are potentially superior to God's work and are, in some sense, a compensation for those unfavorable conditions in the world over which we have no control.

In part, these opposite meanings of the joke reflect a polarity within Jewish thought, which is summed up beautifully by a saying attributed to a Hasidic master, Rabbi Bunam:

Everyone must have two pockets, so that he can reach into the one or the other, according to his needs. In his right pocket are to be the words: "For my sake the world was created," and in his left: "I am earth and ashes."<sup>21</sup>

19. "'Olom ke'minhago noheg' — deriber zet takeh di velt azoy oys!" and "Riboyne-shel-oylem: kuk arop fun'm himl un kuk dir on dayn velt!" Lillian Mermin Feinsilver, *The Taste of Yiddish* (New York and London: Thomas Yoseloff, 1970), pp. 220 and 138, respectively. The first half of each of these proverbs is in Hebrew.

20. "The Traditional Roots of Jewish Humor," *JUDAISM* 12, 3 (Summer 1963): 331.

21. Buber, *Later Masters*, pp. 249-250. An alternate formulation is found in Gordis,

We find here, in a nutshell, the opposing currents of Jewish thought described above. But while this saying embraces both attitudes in a way that explicitly and simultaneously acknowledges the validity of each of them, our joke allows us alternately to perceive first one and then the other of its two meanings — in much the same way as our perception of a “reversible figure” shifts from one configuration to another as we continue to look at it.

Many of the best Jewish jokes are open-ended in this way — that is, susceptible to alternate interpretive options (which should not be confused with “double entendre” or wordplay). In this respect, Jewish jokes often test our “tolerance for ambiguity” — a trait that social psychologists have related to a democratic personality structure,<sup>22</sup> and which authoritarian types apparently lack.<sup>23</sup>

Furthermore, to whatever degree a “tolerance for ambiguity” is exercised by the interpretive properties of Jewish jokes, that in turn may imply a conception of reality as being ambiguous or contradictory in nature. An idea put forward by the Jewish philosopher, Martin Buber, concerning the story of Adam and Eve, might be cited in this connection.

Buber suggested that, when Adam and Eve ate of the forbidden fruit, their eyes were opened to the contradictions inherent in all things — the “knowledge of good and evil” referring to an awareness of the opposites teeming within all creation, rather than to specifically moral categories.<sup>24</sup> This is a painful awareness, from which God had benevolently sought to protect mankind. And, once the irreversible awareness came, God expelled Adam and Eve from the Garden of Eden, lest they eat from the Tree of Life and be condemned to live on for all eternity in the face of contradiction.

What this reading of the myth suggests is that there are two modes of consciousness: one, which filters out the contradictory nature of all things and helps to maintain the illusion that being — including our own — is essentially coherent and consistent with itself; and another, which fully registers the contradictions inherent in all things. Perhaps one is the basis for intolerance and fanaticism, and the other for tolerance and willingness to reason and compromise.

*Op. cit.*, p. 131: “A man should carry two stones in his pocket. On one should be inscribed, ‘I am but dust and ashes.’ On the other, ‘For my sake the world was created.’ And he should use each stone as he needs it.” Rabbi Bunam of Pshysa died in 1827.

22. Among the classic studies in this field are: Else Frenkel-Brunswick’s “Tolerance of Ambiguity as an Emotional and Perceptual Personality Variable,” *Journal of Personality* 18 (1949): 108-143; and *The Authoritarian Personality* by T. Adorno *et al.* (New York: Harper, 1950).

23. “Gestalt psychology was accused of morbidity, by the Nazi psychologist Jaensch, for emphasizing the ambiguity of perception.” Else Frenkel-Brunswick, “Report on a Paper Entitled ‘Tolerance Toward Ambiguity as a Personality Variable,’” *The American Psychologist* 3, 7 (July 1948): 268.

24. *Good and Evil* (New York: Scribners, 1952), pp. 67-80.

In this respect, a Jewish joke which alternately assumes first one and then another interpretive configuration before our eyes, as we consider its meaning, is like a fruit on the Tree of Knowledge, the bitter-sweet taste of which serves as a gentle reminder that diametrically opposed perceptions of one and the same thing may both be valid.

## *Fourteen Years Ago*

*(for Grandma Ro)*

ADAM D. FISHER

For the granddaughter who turned blue  
shortly after birth, whose hearing  
is partial, whose speech is slurred, who  
speaks little, beyond her home  
Grandma lights Shabbos candles, prays —

O Lord  
teach her to make  
just one  
friend.

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# Korbanot: *Recovering Our Spiritual Vocabulary*

IRA F. STONE

## I

### HOW DOES ONE DRAW CLOSE TO GOD?

As the dust settles on the twentieth century, this question, which has pressed upon the human heart from time immemorial, has begun to emerge once more as a fundamental one in the contemporary quest for meaning. And, as the dust settles on the skeleton of rationalism, religious traditions the world over begin to sift through the remains of their pre-modern mythology searching for those aspects of their vocabulary which are recoverable.

The Jewish world, buffeted more than most both by rationalism and death, the two specialties of twentieth century experience, has also begun this process of recovery. As far as I can see, however, the process of myth recovery so far engaged in by post-modern Jews continues to exclude the central Biblical myth for drawing close to God, central also in the rabbinic revitalization of that myth, the *korbanot* (sacrifices). In fact, even as we struggle to reinvest contemporary Judaism with a sense of sacred presence, we distance ourselves further from this locus of spirituality in our liturgy. One need only review the continuing process of prayerbook reform to be convinced that, to at least some degree, that process is synonymous with such distancing. Even as the recovery of our spiritual vocabulary has emerged as an essential concern of our community, we continue to shrink with embarrassment from the sources of that vocabulary. In doing so, we forget or ignore the fact that *korbanot*, first in their actual performance and, later, in their study and rehearsal, provided Jews with a structure for achieving a closeness to God articulated in categories as essential to religious life as, for example, atonement, thanksgiving, and deeds of lovingkindness.

Both the act of sacrifice and the verbal recollection of those sacrifices emerge out of the stark reality of life and death. The very blood and gore which repel the modern temperament aided the pre-modern Jew in his ability to conceive of transcending death. In what contemporary formulation, found in which new *siddur*, does the post-modern Jew grapple with his death-intoxicated century? Where does the contemporary Jew find room in the liturgy to ponder his own mortality?

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The ubiquity of death in the ancient Temple service was not the point of departure for despair, but the opportunity for transcendence. Is such transcendence possible today in the face of genocide and the power to destroy the world? Ought we not at least explore the resources of our founding myths for their potential assistance in giving voice to our silence in the face of death?

This essay will attempt to address both these foci of *korbanot*. They are obviously connected. Our relationship to God, our ability to draw near to Him, works itself out in the face of our mortality. But the consequences of that mortality are often expressed in terms of our need for atonement, and for atoning myth and ritual. I will begin at the point of our mortality and its theological implications, and then proceed to explore the specific power of *korbanot* to speak a spiritual language which responds to the fact of our mortality, specifically the language of atonement. Then I will try to fathom the depths of the spiritual calamity that the destruction of the Temple and the cessation of *korbanot* were for first century Israel, and how, out of that crisis, our liturgy emerged. I will, I state at the outset, lament the loss of that connection in contemporary liturgical experience and suggest that, in part, it might be restored.

## II

Death is what distinguishes the mortal from the immortal, the Divine from the human. In every place and at every moment that God is present, man is not alone, except at the moment of death; in death, man is fully mortal and God cannot experience this fullness of man's mortality. Death is the absence of God. Yet, if our mortality cannot be transcended, then it has no meaning. To transcend death is to draw close to God. In sacrifice, man gives back to God that which separates God from man, that is, death. In doing so, man is able, for a fleeting moment, to imagine his own death and, thereby, experience his future immortality as well. No other form of worship brings man so near the fact of his own death and, therefore, no other form of worship is as effective in liberating man from the constraints of life lived in the shadow of that death.

The fact of death's being bereft of God, its utter solitude, is terrifying to human beings. Recognition of this utter solitude and its terrors can bring on despair and spiritual paralysis. In sacrifice, man shares the fact of death with God; in so doing he is drawing God closer to that phenomenon which is most clearly the cause of the gulf between them. To the extent that God and man share death through the offerings of flesh on the altar, death is less solitary. At the Temple, men came to dispel their sense of terror of death's solitude by conjuring a moment in which God and man shared the experience of death. How-

ever, death in which God shares is no longer, strictly speaking, death, for there is no death in God. The experience of death which is no longer death by virtue of its being shared by God, is atonement.

Atonement is that moment when we are no longer burdened by the knowledge of our mortality. It is the state of living, however briefly, as we imagine we would have lived in the Garden of Eden. It is living in full consciousness of our immortality. As such, it requires and results in a sense of liberation from death. It requires a willingness to acknowledge the inevitability of death, to accept knowledge of our mortality in order to release it. It requires an act of faith that, in relinquishing our mortality, we will not be abandoned but will be welcomed into a deathless world, an immortal world, by an immortal God. It implies, therefore, the most direct and powerful confrontation with death that we can experience short of death itself. Every revelatory tradition has evolved rituals by which the mortal can experience the enormous power of death and taste the liberation which comes with its transcendence. For the Jewish people, the focus of this experience was, initially, in the power of sacrifice. In the ritual of sacrifice man became intimately aware of the death which awaited him, accepted the separation which death imposed between himself and God, but then celebrated the release that would follow this death. The flesh and blood of the sacrificial animal symbolized man's own willingness to be liberated from the constraints of his own mortality. But even when the Temple stood and the sacrificial cult proceeded, the revelatory tradition of Israel required that the quest for atonement include a more personal, more intimate, yet more human acknowledgment and relinquishment of mortality. This was called "afflicting the soul," and was understood to include the giving over of one's own flesh and blood in liberation from mortality.

### III

Atonement, then, is the fulfillment of the existential need to confront death and, by transcending it, giving renewed meaning to life. Atonement through *korban*, the drawing closer to God in the experience of death, is no mere ritual but the process by which the potential paralysis of despair is dispelled, allowing the worshipper to act in the world. The unavailability of this process after the destruction of the Temple necessarily precipitated a spiritual crisis of enormous proportions. That this is, in fact, what happened is reflected in the central motifs of both Christianity and rabbinic Judaism, which replaced the Temple cult and struggled to provide a mechanism for the individual to continue to experience the benefits of sacrifice in the absence of a Temple. The substitution of the sacrifice of Jesus, and the ability for the worshipper to achieve atonement by participating in this sacrifice again and again, was an attempt to satisfy the spiritually longing souls

in Israel and among the nations. Similarly, the elaborate re-enactment of sacrificial rites enjoined on the follower of rabbinic Judaism must clearly have provided an avenue for drawing close to God that had seemed closed after 70 C.E. The transformation of the table into an altar, the punctilious observance of the laws of *tumah* (defilement) and *taharah* (purity) and *ma'aserot* (tithes), in other words, the assumption of the priestly role by laymen — all contributed to the sense that the destruction of the Temple was illusory insofar as the sacrificial ritual could be made effective without its presence. Atonement with God was not precluded. Central to this Temple of the imagination, however, had to be the confrontation with mortality and the mechanism by which to transcend it. This process was achieved liturgically.

“After the destruction of the Temple,” God said to Abraham, “your children shall study the laws concerning sacrifices, and I will consider it as though they had actually offered them, and I will forgive their sins” (T.B. *Meg.* 31b). While the priestly trappings of rabbinic Judaism have been long noted, as well as the two loaves of bread (after the Temple shewbread), the salt, the washing for *taharah*, etc., the element which holds this system together has long been ignored or dismissed. The recitation of the Mishnaic passages containing the laws of the daily and special sacrifices, the inclusion of the descriptions of the offerings in the Shabbat and Festival *Amidot* (central, standing prayers of the day), and the blessing petitioning God to restore the Temple and the sacrificial cult, were the glue that held together the liturgy, conceptually, as it developed.

In place of the Temple in Jerusalem, the imagination of the framers of the Mishnah produced a Temple in the rhythms of living time. Study, prayer and deeds of lovingkindness, performed within the cycle of the festivals and sabbaths, replaced the offerings for those occasions and substituted for sacrifice. But they could be efficacious only if undertaken with the same attention to the mortality/immortality matrix which had occupied the priesthood in Jerusalem — that is, the same attention to *tumah* and *taharah*, as well as a priestly attention to detail and order in their fulfillment. The rabbinic system of living a priestly life and remembering and studying it in its details — including the Temple sacrifices — and their significance, provided a way, even in the absence of sacrifice, for vicarious atonement approximately as powerful as that of sacrifice itself. The dissolution of this rabbinic system of priestly ritual, through a loss of attention to its connection to the life/death matrix, is — in a sense — tantamount to a third destruction of the Temple. If Judaism is to serve as a compelling bridge between God and man, then either the system must be restored or its essential elements — its confrontation with man's mortality in the face of God's immortality — must be appropriated in developing some new system.

## IV

“Death and the continuity of life is actually man’s oldest and most fundamental image for understanding human existence. But it has been remarkably ignored in psychological thought.” Thus writes Robert Jay Lifton, the noted psychiatrist and foremost student of the effects of mass death on contemporary consciousness. And, I might add, modern religious practice has also remarkably ignored this very basic constituent of human culture. This is all the more remarkable in that it has been within religious tradition and in religious language that this fundamental image has been most consistently expressed. Lifton suggests that there have been five modes of expressing the sense of immortality. He then goes on to note:

Following the holocausts of World War II, the viability of psychic activity within the modes has undergone something of a collapse, at least in the West. We exist now in a time of doubt about modes of continuity and connection. . . . Awareness of our historical predicament — of threats posed by nuclear weapons, environmental destruction and the press of rising population against limited resources — has created an extensive imagery of extinction . . . [the] combined imagery of extinction and dislocation leave us in doubt whether we will “live on” in our children and their children, in our groups and organizations, in our works, in our spirituality, or even in nature . . .<sup>1</sup>

The flight from death that characterizes contemporary Jewish liturgy strips that liturgy of the element that might most engage the worshippers of our deeply wounded community. I have quoted Lifton at length in order to bolster a case which will, in any case, meet significant resistance. The numbing assault of dislocation and death on the Jewish psyche has been met and equalled by the numbing dispassion of contemporary liturgy. We remove or emasculate every expression of traditional liturgy which asserts that the worshipper has a personal stake in the success of the ceremony. The death transformation implied in *korbanot* has been removed, the desire for a Messianic ingathering has been generalized, and the assertion of a transforming experience embodied in Jerusalem or the Temple has been toned down, lest they threaten our feelings of diaspora comfort. We have judged our liturgy on the basis of raw logic and scientific accuracy. We have lost faith in the metaphors of tradition, and have expressed that loss of faith by accusing metaphors of being logically untrue. We accuse them of being what they are — metaphors.

The Jewish flight from metaphor and transcendence is understandable. Rationalism professed itself to a beleaguered Jewish world as the great equalizer and redeemer. Under the impact of rationalism, peoples were to be judged on their merits. The irrational racial, religious and ethnic prejudices of the past were to fall in the face of rational scrutiny.

1. *The Life of the Self* (N.Y.: Basic Books, Inc., 1983), pp. 29-30.

The world was to have rules, order, out of which would come justice. The only prerequisite, so it appeared, was to join the rationalist ranks and rid oneself or one's people of the irrational trappings of their past. Liturgy especially, as the most public of people's affirmations, had to be, and continues to have to be, cleansed of primitive and superstitious language that might cause embarrassment to this rationalist myth. However, in the process, not only are we poorer for what has been excised, but we have devalued what has been left in the *siddur* by our attack on metaphor more generally. As the metaphor of *korbanot* is abandoned, the metaphors of Torah, Israel and God are diminished.

Of a more critical nature, however, in the long run, is the contemporary liturgist's avoidance of anything transforming in regard to death. Perhaps no other people have been closer to the center of the twentieth century's orgy of death than the Jewish people. And I will admit a sometimes morbid fascination with Holocaust imagery in some contemporary liturgy. But nothing *happens* in those liturgies, because there is no notion of what might happen. Instead of looking for ways to confront the mass deaths which we re-count, we generally end up merely stuck with them. The language of slaughter and redemption, which the rabbis used in order to deal with their crises in drawing near to God, has been rejected by us. So be it, but how, then, will we draw close, what will be our method of atonement and the liberation from despair that it promises?

## V

The simplest method for re-appropriating the spiritual power of our traditional vocabulary is to return to it. While I anticipate a chorus of disbelief at this point, I persevere, nonetheless. I have myself experienced the power of returning to this language, although only as a starting point for an expansion and renewal of the concept behind the language. When I began to recite the *korbanot* sections in the daily morning liturgy, I could literally see the magnificent laver beside the altar and feel the transforming power in washing my own hands before prayer, a custom that was new to me. As I read on, I could feel the drama of a life and death confrontation as the *Kohanim* and *Levi'im* (Priests and Levites) prepared the animal for slaughter. To read the *Akedat Yizhak* in its turn, together with the *korbanot* liturgy, sent chills down my spine as the horror of death in such intimate terms stared out at me from the *siddur*. Finally, I can almost smell the sweet, reviving incense as Abraham's hand is stayed while the priest's hand is not. At each pause I could pray with fervent desire that the Temple be restored, and this drama of atonement be reenacted.

But, beyond the formal *korbanot* liturgy, I find myself, throughout the day, more conscious of a connection, a penetration into this world

of a powerful transcendent reality. It is a reality that I am moved more and more to recognize in those other spheres of religious life which, our tradition maintains, remain open to us to gain atonement. My table as an altar no longer seems a textbook rationalization for traditional rituals. Those rituals — *Netillat Yadayim* (washing the hands), *Mozi* (blessing over the bread), *Birkat Ha-Mazon* (blessing over the meal) — seem to demand attention. Study becomes an activity that I feel compelled to prepare for, just as a priest would prepare to minister at the altar, by washing and blessing. And acts of love take on a new and compelling meaning as I feel in them a reaching beyond the constraints of mortality to a world in which love replaces death forever. As a system, a metaphor, rabbinic Judaism holds together.

Is what I am saying reactionary? Perhaps. Perhaps the only way to be a revolutionary in today's Jewish world is to be a reactionary. How else does one reclaim what has been lost? Does what I say challenge the contemporary temperament, Orthodox, Conservative, Reconstructionist, and Reform? I think so, but what allegiance do we owe to the very movements that express our woundedness? To take liturgy seriously as metaphor threatens the status quo of both literalists and those who react to literalism by affirming in it what they excise. Does the liturgy, or even its expansion into the rabbinic-priestly system, circumscribe the metaphor? No, it merely establishes it and challenges us to go on from there. Do I believe that the formulation of life-death-transcendence as found in the *korbanot* fully satisfies the needs of twentieth century Jews to grapple with their mortality? No. But I do believe that it allows us to re-appropriate a language in which to begin such grappling.

## VI

The power of liturgy to provide an environment for the mortality/immortality struggle into which God is drawn through *korbanot* is not limited to prayer. The repetition of the sacrificial laws is not to be understood as the functional equivalent of a magical incantation, but, rather, as the traditional liturgy expressly provides, as a complete, living substitute for that lost, richly-textured and meaningful ritual. Moreover, as is well known, liturgy, as Jews use the term, includes the idea of *Talmud Torah* (study) as well as prayer. Study as worship is at the heart of the rabbinic program for replacing sacrifice as a mode of attaining salvation. To exclude the *korbanot* from our liturgy is to sever the tie between *Talmud Torah* and its classically understood goal.

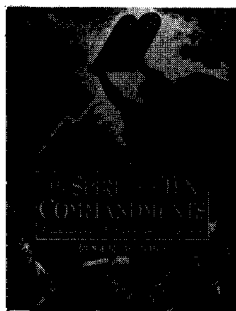
The distinction between man and God is death. The distinction between man and other creatures is reason. Man and God have reason in common. Reason is not limited to the intellect and rationalizing faculties. It includes the ability to reflect on the experiences of all the



emotions as well. Whatever proceeds from the mind, a human being can stand back and reflect upon. It is this ability to reflect which constitutes imagination. The link between man and God in imagination is language. The voice of God that is heard in imagination is prophecy. The ability to participate in the Divine-human dialogue is open to all via prayer, as I have explained, as well as through study. In study, the human being directs the force of his intellect, and his emotional reflections, on to the collected record of the prophetic encounter with the voice of God in the imagination. Through study, man concentrates his reason, which he alone shares with God, in an effort to meet God. Here a man lifts himself out of his mortality by attending to that part of himself which must be immortal by virtue of its being shared with God.

The drawing near of God and man which study permits is, in fact, the functional equivalent of that drawing near to God that allowed man to transcend death in the sacrificial act. The transfer of the act of study to the prayer service provides the technique for achieving such transcendence. The *korbanot*, as the object of such study, allow the connection to be clearly stated between study as our means of transcendence, and death as the abyss that must be bridged in attaining this transcendence.

A liturgy from which those issues have been removed is ultimately useless to human beings who, by their nature, know that how we approach death and continuity is the most fundamental expression of life's meaning. And a useless liturgy inevitably will be abandoned.



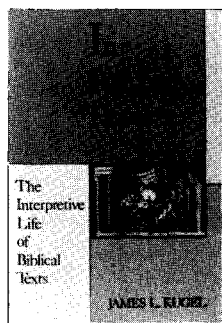
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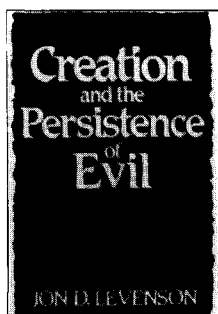
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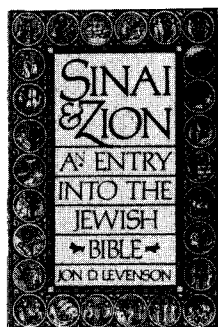
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# *Literary Forgery and Hasidic Judaism: The Case of Rabbi Yudel Rosenberg*

IRA ROBINSON

Was, then, the great Rabbi of Graidik, God forbid, a liar?  
Are all the rabbis, saints, and sages deceivers, while only  
atheists speak the truth?

Isaac Bashevis Singer, *In My Father's Court* (New York,  
1966), p. 12.

THE CHALLENGES MADE TO RABBINIC Judaism in the modern era have been expressed in many ways. Certainly one of the most interesting of these concerned the attention paid to Judaic texts and their authenticity. Those who challenged the pretensions of Orthodoxy to represent the continuation of the rabbinic Jewish tradition in modern times did so, to a large extent, through the application of western standards of critical scholarship to the texts of the Jewish past and through the publication of critical editions of ancient and medieval Jewish texts.<sup>1</sup>

The Orthodox were more or less forced to respond in kind.<sup>2</sup> Though they did not cease to polemicize against the perceived "treason" of the modernists [*maskilim*] against the mythic structure of rabbinic Judaism, they proceeded to imitate them in many respects, not the least of which was a desire to publish ancient and medieval Judaic texts. As Norman Solomon comments, "the barrier which the traditionalists would have liked to exist and even imagined to exist between them and the maskilim was unreal."<sup>3</sup>

On both sides of the *kulturkampf*, the legitimacy of Judaism was felt to be at stake. It is not surprising, therefore, that a polemical thrust can be detected in much of the publication of Judaic texts in the nineteenth century, both in Western and Eastern Europe. At the hands of both *maskil* and traditionalist, publication of all sorts of Hebraic material to satisfy a growing demand, went on apace.<sup>4</sup> By the end of the

1. On *Wissenschaft des Judentums*, see Michael A. Meyer, *The Origins of the Modern Jew* (Detroit, 1967), p. 144ff.

2. Ada Rapoport-Albert, "Hagiography With Footnotes: Edifying Tales and the Writing of History in Hasidism," *History and Theory* beiheft 27 [1988], p. 156.

3. Norman Solomon, *The Analytic Movement in Rabbinic Jurisprudence: A Study in One Aspect of the Counter Emancipation in Lithuanian and White Russian Jewry From 1873 Onwards* (Doctoral Dissertation, University of Manchester, 1966), pp. 43-44.

4. Cf. David Roskies, "The Medium and Message of the Maskilic Chapbook," *Jewish Social Studies*, 41 (1979): 286.

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nineteenth and the beginning of the twentieth centuries, the highly charged ideological atmosphere, as well as an ever-growing demand for Jewish books, engendered a situation in which there was great temptation to manufacture documents.

It is clear that this temptation was not resisted by Westernized Judaic scholars. Some of the forgeries, such as Lazarus Goldschmidt's *Baraita de-Ma'aseh Bereshit*, or the 1907 publication by Solomon Judah Friedlaender of the Order *Kodashim* of the *Talmud Yerushalmi*, purportedly from a manuscript discovered in Turkey, may have been intended as either pranks or for the purposes of scholarly or pecuniary advancement.<sup>5</sup> Others, however, such as Saul Berlin's publication of *Besamim Rosh*, ascribed to R. Asher of Toledo, and Joseph Perl's *Megalleh Temirin*, purporting to be a Hasidic document, were specifically written with polemical purposes in mind — the advancement of *maskilic* views to the detriment of anti-*haskalah* forces such as Hasidism.<sup>6</sup>

Within the Orthodox camp in Eastern Europe, the publication of accurate editions of "canonized" texts was a recognized virtue.<sup>7</sup> Nonetheless, the temptation to "create" documents, either for personal gain and advancement or for polemical purposes was not less than in the camp of *Wissenschaft*. This was so partly because the authority structure of an increasingly beleaguered Orthodox Judaism left open precious few opportunities for literary creativity other than the time-honored genres of textual commentary and homiletics. The temptation was also aided, in particular, by the growing realization on the part of the Orthodox that the vast amount of Hebrew manuscripts available in European libraries contained some very important unpublished material. As Solomon Schechter, a product of Hasidic Eastern Europe, put it:

[Knowledge of the Hebrew collection of the British Museum] has penetrated into the remotest countries, and even the Bachurim (alumni) of some obscure place in Poland, who otherwise neither care nor know anything about British civilization, have a dim notion of the nature of these mines of Jewish learning.

All sorts of legends circulate amongst them about the "millions" of books which belong to the "Queen of England." They speak mysteriously of an autograph copy of the Book of Proverbs, presented to the Queen

5. Cf. Cecil Roth, "Forgeries," *Encyclopedia Judaica* (Jerusalem, 1972) [EJ] volume 6, col. 1431-1432. Cf. Harry M. Rabinowicz, *Hasidism: The Movement and Its Masters* (Northvale, NJ, 1988), p. 268.

6. Roth, *Op. cit.* On Perl, see Raphael Mahler, *Hasidism and the Jewish Enlightenment: Their Confrontation in Galicia and Poland in the First Half of the Nineteenth Century* (Philadelphia, 1985), *passim*.

7. Thus, Rabbi Abraham Mordecai Alter, the Gerrer Rebbe, encouraged the printing of the works of earlier rabbinical authorities as well as the writings of Hayyim Vital, primary exponent of Lurianic Kabbalah, whose works remained largely in manuscript until the late nineteenth century. He was also one of the first to recognize that Friedlaender's publication of the *Talmud Yerushalmi* was a forgery. Cf. Harry M. Rabinowicz, *The World of Hasidism* (Hartford, 1970), p. 164.

of Sheba on the occasion of her visit to Jerusalem . . . of a copy of the Talmud of Jerusalem which once belonged to Titus . . . of a manuscript of the book *Light is Sown* which is so large that no shelf can hold it.<sup>8</sup>

With such legendary material known to exist in libraries, to which the vast majority of Eastern European Jews never dreamed of gaining access, and with representatives of the “enlightened” busily at work publishing texts from these libraries which were often used in polemics directed against the Orthodox, the temptation within Orthodox circles to answer in kind was an ever-present factor.

For some traditional Polish Jews, manuscripts spelled opportunity. In the mid-nineteenth century, a Polish Jew named Judah b. Alexander Rosenberg (no known relation to the focus of this study) was engaged in the publication of numerous Hebrew manuscripts, including the responsa of R. Judah Asheri (1846), a collection of Gaonic works (1856) and the responsa of R. Haim Or Zarua (1860).<sup>9</sup> It is apparent from the introduction to these works that Rosenberg made his somewhat precarious living from such publishing ventures. We further learn that, according to the dean of nineteenth century Hebrew bibliographers, Moritz Steinschneider, in at least one of his publications Rosenberg played fast and loose with the generally accepted academic rules of publication by attributing an anonymous manuscript to the famous Saadia Gaon, obviously with increased sales in mind!<sup>10</sup>

In 1885, a man named Jacob Marshak of Polotsk, published an anthology of short medieval texts which he claimed (inaccurately) to be publishing for the first time, entitled *Sefer Divrei Moshe*. In the introduction, Marshak squarely faced the fact that the authenticity of his documents, which included several Maimonidean letters, would be questioned, so he stated that the book was published from a manuscript sold to him by a R. Zvi Yehezkel Michelsohn who assured him that the contents had never been published. He himself, however, was unable to guarantee that none of them had ever been published by “the researchers of antiquities and the revealer[s] of hidden things.” He then proceeded to denounce the “modern critics” who came with evil intent to cast doubt on the authenticity of the documents which he was publishing, just as they had done with the authenticity of the *Zohar* and other books. As he stated, “who can come to investigate matters written seven hundred years ago and more in the utmost limits of criticism?”<sup>11</sup> Significantly, Rabbi Samuel Mohilever, in his approbation of Marshak’s

8. Solomon Schechter, *Studies in Judaism (first series)* (Philadelphia, 1896), p. 252. Cf. Yosef Dan, *Ha-Sippur ha-Hasidi* (Jerusalem, 1975), p. 241.

9. Judah b. Alexander Rosenberg, ed., *Zikhron Yehudah* (Berlin, 1846); *Kovez Ma’asei Yedei Geonim Kadmonim* (Berlin, 1856); *She’elot u-Teshuvot Maharah ’Or Zarua* (Leipzig, 1860).

10. Moritz Steinschneider, “*Der Siddur des Saadia Gaon (Als Manuscript gedruckt)*,” dated Berlin, 28 Marz, 1856.

11. Jacob Marshak, *Sefer Divrei Moshe* (Warsaw, 1885), introduction unpaginated.

book, leaves open the question of the documents' authenticity but states, nonetheless, that they ought to be published.<sup>12</sup>

When Moses Cordovero's book, *'Elimah Rabbati*, was published from a manuscript in 1881 in Brody, the editor similarly faced up to anticipated skepticism concerning the authenticity of the document:

Is [this book's] editor a prophet or a son of a prophet? Who has told him . . . that this is the holy book *'Elimah*, a hidden treasure? Perhaps there is an error or perhaps malice in order to increase its monetary value. For thus some book peddlers and booksellers cry out in the streets: Buy this ancient book . . . which we have found in a library. Perhaps this book you have called *'Elimah* was written by someone other [than Cordovero]?<sup>13</sup>

Even books of traditional folk remedies, hardly the province of an intellectual elite, were getting into the act by announcing that they were being published from a manuscript found in an unspecified *Bibliothek*.<sup>14</sup>

Faced with this situation, the spiritual leaders of Eastern European Orthodoxy advised caution in approaching such books. The Hasidic leader, R. Zadok ha-Kohen of Lublin, put it this way:

Even with regard to works bearing the names of the early sages . . . if the publisher is not known to be a God-fearing man who believes in all the words of the Torah, an investigation is required whether or not he has interpolated foreign matter into the books with the purpose of misleading the children of Israel, since it has become clear to me that they have done precisely this to a number of books.<sup>15</sup>

In such an atmosphere of both the miraculous recovery and the publication of important Judaic texts and suspicion lest these texts be found false, began the literary career of Rabbi Yudel Rosenberg (1859-1935). Born in Skaryszew, a town near Radom, Poland, Rosenberg received a rabbinic and Hasidic education. Like many Jews of his generation, he was exposed to the literature of the *Haskalah* and mastered the Russian language. Also, like so many of his contemporaries, he was torn between loyalty to Jewish tradition and modernity. As we will see, though he remained within the structure of Orthodox Judaism, his encounter with the modern world deeply informed his *oeuvre*. His mastery of Russian enabled him to obtain a government license to function as an official rabbi. One among many in his generation, he moved from small town Poland to the big cities, beginning his rabbinate in the town of Tarlow and living successively in Lublin, Warsaw and Lodz before emigrating to Canada in 1913.<sup>16</sup>

12. Ibid.

13. Moses Cordovero, *'Elimah Rabbati*, photo-offset of Brody, 1881 edition, ed. David ha-Kohen (Jerusalem, 1984), editor's introduction, unpaginated.

14. Anonymous, *Sefer Refuot* (Vienna, 1927). Reprinted in *Ozar ha-Segullot* (Jerusalem, 1987), title page.

15. Cited in Louis Jacobs, *Hasidic Thought* (New York, 1976), p. 232.

16. I am presently writing a comprehensive biography of Rosenberg entitled *A Kabbalist*

In 1902, established in Warsaw, he made his literary debut with a supercommentary on tractate *Nedarim* of the Babylonian Talmud.<sup>17</sup> In 1905, he began an ambitious project to re-edit and translate large portions of the *Zohar* into Hebrew.<sup>18</sup> In 1908, he edited a short-lived rabbinical periodical.<sup>19</sup> However, parallel to these publications, which were gaining him a growing reputation in the Warsaw rabbinic world, he engaged in a series of popular publications which were to propel him into the world of modern Jewish literature as well as the world of literary forgery.

Like other Orthodox observers of the current scene, Rosenberg believed that Orthodoxy was in crisis because the younger generation was falling prey to the wiles of the secularists. The reason for this was that they, as Abraham Mordecai Alter, the Gerrer Rebbe, stated, "read wicked books and newspapers which poison the body and soul."<sup>20</sup> What was needed, obviously, was to fight fire with fire. Thus, the Gerrer Rebbe, having spoken of the poison of the "wicked" books and newspapers, accompanied it with a proposal for the establishment of an Orthodox press. Rosenberg was in full agreement regarding the situation. As he stated in the introduction to his *Zohar* translation:

We see, because of our many sins, that books of heresy are greatly multiplying in this era and they have many buyers. It is as if they [the heretical authors] are hunting for souls by the fact that they beautify their books with all sorts of beauty. Especially these books are written in a pure and simple language, while the holy books are left in a corner ...<sup>21</sup>

What Rosenberg had realized was that the old style of writings was not working any more. In the introduction to an unpublished collection of moralistic excerpts from various rabbinic and medieval sources, he stated:

Hasidic books speak only to the Hasidim while moralistic books which speak of hellfire ... have none to seek them.<sup>22</sup>

Scoffers were making light of traditional tales and legends because they were not written down in histories in the modern style.<sup>23</sup> To Rosenberg

*in Montreal.* For the present see, with some caution, his daughter's memoir: Leah Rosenberg, *The Errand Runner* (Toronto, 1981). Cf. also Ira Robinson on, "A Letter From the Sabbath Queen": Rabbi Yudel Rosenberg Addresses Montreal Jewry", in Ira Robinson, Pierce Anctil and Mervin Butofsky, eds., *An Everyday Miracle: Yiddish Culture in Montreal* (Montreal, 1990), pp. 101-114.

17. *Yaddot Nedarim* (Warsaw, 1902). On this and Rosenberg's other rabbinic publications from his Warsaw period, see Robinson, *A Kabbalist in Montreal*, chapter 4.

18. *Sha'arei Zohar Torah* [SZT] (Warsaw, 1905).

19. *Kol Torah* (Warsaw, 1908).

20. Cited in Rabinowicz, *World*, p. 163.

21. SZT, p. 7.

22. Rosenberg, *Derekh Erez u-Shemirat ha-Nefesh*, p. 3, manuscript preserved among the Rosenberg papers, Savannah, Georgia. The author has a photocopy in his possession.

23. Rosenberg, *Sefer Nifla'ot Maharal mi-Prag 'im ha-Golem* (Warsaw, 1909), p. 3.



it was obvious that the situation could be changed for the better by offering the public newfangled stories purveying the traditional message, in opposition to the modernist Hebrew and Yiddish literature, which tended to deliver a message of the breakdown of Jewish tradition.

Since Rosenberg's object was to attract the younger generation to Orthodoxy through the literary medium, he determined to imitate contemporary Hebrew and Yiddish fiction. As David Roskies notes, the "Warsaw school" of popular Yiddish fiction in the latter part of the nineteenth century concentrated on folklore, local events and the hasidic milieu.<sup>24</sup> Rosenberg would do no less in conveying his Orthodox message.

In 1904, together with his eldest son, Meir Joshua,<sup>25</sup> Rosenberg published a small book, aimed at a popular audience, entitled *Sefer Goral ha-Assiriyot* [Book of Lots of Tens].<sup>26</sup> It describes a system whereby people were able, through various manipulations of Hebrew letters, to receive oracular answers to their queries, and was ascribed to "Rav Zemah bar Mar Rav Ahai Gaon" and was published from a manuscript originating in the "Imperial Library of Metz." Neither Zemah b. Ahai nor the Imperial Library of Metz ever existed.<sup>27</sup>

Rosenberg claimed to have obtained the manuscript from a Hayyim Sharfstein and he published a letter supposedly from Sharfstein in the introductory material. Dated Cracow, 1896, it tells of the difficulties of copying the manuscripts, which "have nearly faded away because of [their] age." The letter also states that, together with the manuscript of *Goral ha-Assiriyot*, he was enclosing other manuscripts: an anonymous manuscript, written in Arabic, entitled *Kuntres 'Ikkarei ha-Emunah leha-Karaim*, obviously having to do with the Karaites, and a kabbalistic manuscript, by the seventeenth century Meir Poppers, entitled *Kuntres Ziyurei 'Amidat ha-Eser Sefirot min ha-Heh Parzufim*. The listing of these other manuscripts was obviously intended to give verisimilitude to the cover story. It also indicates the fact that Rosenberg was aware, at least in a general way, that, included among the manuscripts extant in libraries was a considerable amount of Karaitica, that Karaite writings were often in Arabic,

24. Cf. Roskies, "Medium and Message," p. 285; Dan Miron, "Folklore and Antifolklore in the Yiddish Fiction of the Haskala," in *Studies in Jewish Folklore*, ed. Frank Talmage (Cambridge, Ma., 1980), p. 249.

25. On Meir Joshua Rosenberg, see the introduction to the Jerusalem, 1968 edition of his work, *Kur ha-Mivhan*. There are two likely reasons why Yudel Rosenberg let his son take the credit for this publication. First of all, it would allow him to distance himself from the project should the document's authenticity come into question. Secondly, young Meir Joshua was on the marriage market, and it might have been felt that having this publication to his credit might help him get a good match.

26. (Warsaw, 1904).

27. Sid Z. Leiman, "The Adventure of the Maharal of Prague in London: A Contribution Toward An Intellectual Portrait of R. Yudel Rosenberg" (Conference on "Tradition and Crisis," Harvard University, 1988), note 25.

and that manuscripts of renowned kabbalists were also there for the publishing.<sup>28</sup> The fact that Rosenberg felt it necessary to demonstrate such knowledge of the world of Hebraic manuscripts in what was supposed to be a "popular" work, seems to indicate that he felt that, at the very least, this would serve to impress his traditional audience and, perhaps, improve sales.

What is the provenance of the book? Either Rosenberg was the naive dupe of Hayyim Sharfstein or else he wrote it himself. As we will see, Rosenberg's literary career as a whole will indicate that the work was created by him (and, in this case, his eldest son).

There is no evidence that the book was not accepted as authentic by its readers, though its relative lack of popularity may be noted from the absence of a second edition. That Rosenberg's creation passed muster is evident by the fact that, one year later, he published yet another manuscript from the Imperial Library of Metz. This one was also a work designed for a popular audience, though it, too, had scholarly pretensions. It was an edition of the Passover Haggadah with a commentary ascribed to the famed Rabbi Judah Loewe of Prague, the Maharal.<sup>29</sup>

Here, too, the book was supposed to have derived from a manuscript obligingly sent by Hayyim Sharfstein. In Sharfstein's letter, published at the front of the volume, and written now from Metz itself, he explained to Rosenberg, whom he now claimed as a relative, that the manuscript had come into the possession of his uncle, along with a number of other valuable manuscripts. Rosenberg published the Haggadah, unlike *Goral ha-Assiriyot*, with the approbations of two prominent Warsaw rabbis, Petaḥia Hornblum and Isaac ha-Kohen Feigenbaum, an indication that this manuscript was treated with more respect than the first one.<sup>30</sup>

The manuscript, ostensibly copied in the year 1590 by Rabbi Loewe's son-in-law, Isaac Katz, and containing a long introduction by the latter (which Rosenberg chose not to publish), was, in fact, largely made up of material excerpted from the Maharal's genuine works, particularly *Gevurot ha-Shem*.<sup>31</sup> Nonetheless, beyond those parts of the work which

28. In the prefatory material to his complete edition of his Zohar translation, he includes a letter from the semiticist, Alexander Harkavy of St. Petersburg. The letter, in which Harkavy acknowledges, among other things, a request for help in translating foreign words in the Zohar, indicates that Rosenberg may have had more intellectual contact with the world of "modern" scholarship than he was prepared to admit. *Zohar Torah* (Montreal, 1924), volume 1, p. 8.

29. *Haggadah shel Pesah* (Warsaw, 1905).

30. Both rabbis had provided Rosenberg with approbations for previous works.

31. Rosenberg may have gotten the idea of using Katz as the recorder of his Maharal manuscripts through the publication in the Hebrew periodical, *ha-Maggid*, in 1872, of an eyewitness account of Katz who had accompanied his father-in-law to a meeting with the Holy Roman Emperor. Arnold Goldsmith, *The Golem Remembered, 1909-1980* (Detroit,

Rosenberg specifically claimed as his own, including a preliminary compendium of laws and customs related to Passover as well as a commentary on the concluding hymn of the Passover seder, *Had Gadya*,<sup>32</sup> much of the material can be shown not to have emanated from Loewe's pen, particularly in those sections which relate to Kabbalah.<sup>33</sup>

Once again, however, Rosenberg had succeeded in passing off his creation as a genuine work. It was published in many editions, both by Rosenberg and others, and was accepted by a number of rabbis as an halakhic authority relative to the laws and customs of the Passover Seder.<sup>34</sup> Only in the year 1985 did a challenge to the authenticity of this document appear in print.<sup>35</sup>

Obviously fortified by the success of his first two editions of manuscripts from the Metz library, Rosenberg prepared to publish other documents from this treasure-trove. Once again, his relative, Hayyim Sharfstein, provided him with a manuscript of the Maharal from the Library of Metz,<sup>36</sup> and spoke of still another Maharal manuscript of over 100 pages which he was prepared to sell for the sum of 800 *kronen*. Prospective buyers were urged to contact Rosenberg.<sup>37</sup>

The manuscript that Rosenberg published, in 1909, was entitled *Nifla'ot Maharal mi-Prag 'im ha-Golem* [The Wonders of the Maharal of Prague with the Golem]<sup>38</sup> and has been described by Yosef Dan as the most important twentieth century contribution of Hebrew literature to world literature.<sup>39</sup> As was the case with the *Haggadah*, the manuscript was presented as having been written by Isaac Katz, Maharal's son-in-law. It is an account of the creation, by the Maharal, of a *Golem*, a humanoid, and the role of the Maharal and his *Golem* in protecting the Jews of Prague against the Blood Libel.

The notion that, by means of esoteric knowledge, it was possible to create a humanoid, has a long history in the Jewish tradition.<sup>40</sup> However, the name of the Maharal of Prague was not connected with the concept of the Golem until the nineteenth century, when, in a collection of the legends of the Jews of Prague, the story is told in some 350

1981), p. 40. On the makeup of "Maharal's" commentary, see the criticism of Abraham Benedict, "*Haggadat Maharal o Aggadat Maharal?*," *Moriah* 14, no. 3-4 [1985]: 102-113.

32. Rosenberg, *Haggadah*, pp. 1-9, 71-72.

33. Benedict, "*Haggadat Maharal*," pp. 105, 113; cf. Dan, *Sippur*, p. 221.

34. Benedict, "*Haggadat Maharal*," p. 102.

35. *Ibid.*

36. Rosenberg, *Nifla'ot*, p. 3.

37. *Ibid.*, p. 4.

38. (Warsaw, 1909). It was translated into English by Joachim Neugroschel, *Yenne Velt: The Great Works of Jewish Fantasy and Occult* (New York, 1976), volume 1, pp. 162-225. Cf. the translator's note on p. 351.

39. Dan, "The Beginnings of Hebrew Hagiographic Literature," [Hebrew], *Jerusalem Studies in Jewish Folklore* 1 [1981], p. 85.

40. See Gershom Scholem, "The Idea of the Golem," *On the Kabbalah and Its Symbolism* (New York, 1965), pp. 158-204.

words.<sup>41</sup> It is likely that Yudel Rosenberg got wind of the story either through its inclusion as an appendix to a chronicle published in Warsaw in 1869,<sup>42</sup> or else orally and decided to work it up into book length form.

In creating his tale of the Maharal and the Golem, Rosenberg had several goals in mind. He was, first of all, presumably looking to supplement his rabbinic income, which was insufficient for the support of his large family, especially considering that his daughters were fast approaching marriageable age and needed to be provided with dowries.<sup>43</sup> Given the situation of the Jewish book market at that time in which, as Rosenberg himself once observed in an introduction to another publication, “[i]t is a known fact that all authors of books in our times rather than inheriting honor suffer contempt; in place of profit there is baldness,”<sup>44</sup> it was doubtless to his advantage to present this work, like his previous two popular works, as the writing of a major luminary of the Jewish past. This would make it a natural “best seller.”

Once again, however, merely ascribing the book to the Maharal was only half the battle. It remained for Rosenberg to create a work which would be worthy of the name it bore. By all accounts, he succeeded. What he did with the skeleton of the story that he found was to attach it to a theme of great dramatic appeal and one, moreover, that was of great contemporary concern — the Blood Libel.

The notion that Jews used the blood of Christian children in their rites developed in medieval Europe and was especially prevalent in fifteenth and sixteenth century Germany.<sup>45</sup> The actual persecution of Jews on this charge petered out in the seventeenth century due to structural changes in the legal and judicial system of the Holy Roman Empire, developments in Reformation theology and the efforts of the Jews themselves.<sup>46</sup> Nonetheless, the legend remained intact, particularly in rural areas. In the late nineteenth century, the anti-Semitic movement, as part of its campaign against the Jews’ becoming an integral part of modern society, caused a revival of the myth and, starting in the late nineteenth century, a number of well-publicized trials of Jews on the charge of ritual murder were held in both Central Europe and the Russian Empire. Indeed, after the dissolution of the second Duma in 1907 and the concurrent victory of reactionaries in the Russian government, there was a concerted effort on the part of the government,

41. Goldsmith, *Golem*, pp. 28, 35.

42. Frederic Thieburger, *The Great Rabbi Loew of Prague* (London, 1954), p. 80.

43. On the financial difficulties of the Rosenberg family, particularly with regard to providing dowries for the daughters, see Leah Rosenberg, *Errand Runner*, p. 24.

44. Rosenberg, *Derekh Erez*, p. 3.

45. On the history of the Blood Libel, see R. Po-Chia Hsia, *The Myth of Ritual Murder: Jews and Magic in Reformation Germany* (New Haven, 1988).

46. *Ibid.*

as part of its anti-revolutionary campaign, to use the Blood Libel against the Jews.<sup>47</sup>

It is doubtless this situation which led Rosenberg to tie the Maharal of Prague and his Golem to this very theme. As the title page of the book proclaimed:

The Maharal created the Golem through kabbalistic wisdom to fight the Blood Libel, which was common in his time and to show to all the truth that Israel is innocent [of that libel].<sup>48</sup>

Rosenberg tried to go even farther. At one point in the book, he attempted to demonstrate that the Jews were not, in fact, responsible for the trial and condemnation of Jesus. He did this by asserting that those who participated in the trial of Jesus were the sectarian Saducees alone, "whereas the true Jews, that is the Pharisees and the Essenes, who did not desire to recognize Herod's government, did not at all wish to take part in this trial."<sup>49</sup>

In point of historical fact, as has been shown by several critics, the Blood Libel appears not to have been a factor in Jewish-Christian relations in Prague during the era of the historical Rabbi Loewe.<sup>50</sup> However, this and other historical and geographical errors committed by Rosenberg<sup>51</sup> do not diminish the dramatic power of the confrontation of the kabbalist rabbi, aided by his Golem and the priest-sorcerer, Thaddeus, with the victory going to the rabbi and vindication to the Jews.

The Maharal story was so immensely popular and influential that it spawned numerous other literary works. One of them, entitled *Hokhmat Maharal*, purports to be an account of a religious disputation held between Rabbi Loewe and Cardinal Jan Sylvester. Clearly, this work is dependent on Rosenberg's publication, for the "fact" of this disputation is known only through it. However, Rosenberg's work summarizes the debate and, in *Hokhmat Maharal*, four of the five topics listed by Rosenberg are not treated.<sup>52</sup> On the basis of internal evidence, S. Leiman assumes that its author is Dovberish Tursh (ca. 1863-1935), two of whose works are, in fact, mentioned in the course of the disputation.<sup>53</sup> *Niflaot Maharal* was further anthologized by the Hebrew author and folklorist Micha Ben Gurion in his *Mekor Yehuda* [Fountain of Judah],<sup>54</sup>

47. EJ volume 4, col. 1130. s.v. "Blood Libel."

48. Rosenberg, *Nifla'ot*, title page.

49. Ibid., p. 7.

50. Goldsmith, *Golem*, p. 35.

51. An example of one of the errors made by Rosenberg is that he gave the cardinal in Prague the name of Jan Sylvester. This is, actually, the name of a sixteenth century Christian Hebraist. No cardinal of that name existed in the Maharal's era. See Leiman, "Adventure," note 12. Cf. also Goldsmith, *Golem*, p. 40.

52. Leiman, "Adventure," note 5.

53. Ibid.

54. Cf. Goldsmith, *Golem*, p. 41.

translated into German by Chaim Bloch,<sup>55</sup> and adapted by the Yiddish poet H. Leivick for a drama entitled "Der Goylem."<sup>56</sup>

Apparently most readers of *Niflaot Maharal* accepted Rosenberg's story as genuine and treated the book as the publication of a sixteenth century manuscript. Thus, Zalman Reizin, in his lexicon of Yiddish literature, reported that "[Rosenberg's] relative, a bookseller, found it in the City Library of Metz."<sup>57</sup> Not all, however, were taken in. In the far-off Hungarian town of Marmorosziget, a man named Emmanuel Eckstein, noting that the work contradicted previous rabbinic statements relative to the creation of a *golem*, as well as other internal contradictions, and having sent to Prague for accurate information, was able in a pamphlet that he published in his city in 1910, to declare the work a lie and a sham.<sup>58</sup> Eckstein's criticism was picked up by the young Gershom Scholem, who, in a review of a work edited by Chaim Bloch which contained another purported Maharal letter dependent on Rosenberg's work, condemned Rosenberg's publication as a late forgery.<sup>59</sup> In a later essay on the *golem*, Scholem would give the author of *Nifla'ot Maharal* the following grudging compliment:

Toward the end of this Hebrew novel there are nineteen apocryphal utterances of Rabbi Loew on the nature of the Golem, which, in reality, do no less honor to the kabbalistic frame of mind than to the imagination of the author.<sup>60</sup>

Despite the animadversions of Eckstein and Scholem, neither of which appear to have influenced a broad audience in Eastern Europe,<sup>61</sup> the publication of *Niflaot Maharal* seems so much to have consolidated Rosenberg's reputation that, by 1910, a year after the publication of the work, he had left his position in Warsaw and moved to Lodz, the second largest city of Poland, where he set himself up as an independent Hasidic rebbe and where he experienced his greatest burst of literary creativity.

In Lodz, unencumbered by any official post as *dayyan*, as had been the case in Warsaw, where he had been forced by circumstances to use his literary talents both to make ends meet as well as to consolidate his position as spiritual leader, Yudel Rosenberg published no less than

55. Ibid., p. 53.

56. Ibid., p. 41. Cf. also Chaim Leib Fox, *100 Years of Yiddish and Hebrew Literature in Canada* [Yiddish] (Montreal, 1979), p. 275.

57. Zalman Reizin, *Leksikon fun der Yiddisher Literatur, Presse un Filologie* (Vilna, 1929), col. 116.

58. Emmanuel Eckstein, *Sefer Yezirah* (Marmorosziget, 1910).

59. Gershom Scholem, *Kiryat Sefer* 1 [1924/5], pp. 104-106.

60. Scholem, "Idea of the Golem," p. 189, note 1.

61. The eight editions of the book that I have thus far discovered indicate that it was fairly continuously in print, at least until the late 1960s. This would seem to indicate its continuing acceptance.

eight major works between 1910 and 1914.<sup>62</sup> Of these, five were based upon the publication of texts which, it was claimed, were new or, at least, not readily available to the average reader.

The first of these, *Sefer Eliyahu ha-Navi*, was a collection of tales concerning the prophet Elijah, most of them culled from various midrashic collections, but some of them bearing traces of Rosenberg's hand. The motivation for the publication of this book may well have been the widespread custom among Hungarian and Galician Hasidim to read designated portions of a midrashic collection, *Tanna de-Be Eliyahu*, popularly ascribed to the prophet Elijah, at the end of every Sabbath in order thereby to merit success in the study of Torah, bodily health and economic prosperity.<sup>63</sup> Rosenberg saw his book as filling the same purpose as *Tanna de-Be Eliyahu*, since he recommended reading from it at the same time period — after the end of the Sabbath — and with the same goal in mind, “to ensure a good living [*parnassah*], success and blessing.”<sup>64</sup>

In placing his collection in direct competition with *Tanna de-Be Eliyahu*, Rosenberg moved to put into question the authenticity of that midrash. He would not, he stated, cite passages in his book in the name of the midrash *Tanna de-Be Eliyahu*:

because of the doubt which the critics [*mevakrim*] have expressed that the author of *Tanna de-Be Eliyahu* is not the prophet Elijah but rather the Tanna Elijah who lived in the times of the *Tannaim* [mishnaic rabbis].<sup>65</sup>

At the same time, he asserted the authenticity of his own publication by demanding that the reader “be in no hurry to suspect that — God forbid — I forged this [document] by myself [*milibi*].”<sup>66</sup> In a later section of the work, he similarly denigrated *Tanna de-Be Eliyahu* by stating that the prayer of Elijah that he was publishing was parallel to that printed in chapter 19 of *Tanna de-Be Eliyahu*, except that he was publishing a text that was both fuller than that of the rival text and not filled with scribal errors [*shiggegat ha-ma'atikim*].<sup>67</sup>

Rosenberg announced that in his work he was relying on other midrashim, such as *Midrash Tadshe* and *Midrash va-Yosha'*. The texts of these midrashim that he used, he claimed, were superior to those contained in the standard printed editions. The source of his superior texts was the Land of Israel, whence Rabbi Solomon Aaron Wertheimer had

62. The three works not covered in this paper are *Sefer Raphael ha-Malakh* (1911), a collection of traditional remedies, *Darshah Zemer u-Fishtim* (1912), on the halakhic problem of mixed fabrics in the textile industry of Lodz, and *Refuat ha-Nefesh u-Refuat ha-Guf* (1913), a Yiddish translation and reworking of *Hilkhot De'ot* of Maimonides' *Mishneh Torah*.

63. William G. Braude and Israel J. Kapstein, *Tanna Debe Eliyahu: The Lore of the School of Elijah* (Philadelphia, 1981), p. 12.

64. Rosenberg, *Sefer Eliyahu ha-Navi* (Warsaw, 1910), p. 3.

65. Ibid., p. 4. Cf. Braude and Kapstein, *Tanna Debe Eliyahu*, p. 9, note 27.

66. Rosenberg, *Sefer Eliyahu*, p. 3.

67. Ibid., p. 67.



derived many of the manuscripts for his collections of Midrashim, which he began publishing in 1893.<sup>68</sup> Rosenberg thus stated that he received a superior copy of *Midrash va-Yosha'* from the Land of Israel via his friend, Joshua Teitelbaum of Warsaw.<sup>69</sup> The superior text of Elijah's prayer, mentioned above, was sent to Rosenberg, so he claimed, directly from the city of Safed, along with other copies of old books from which he copied many items.<sup>70</sup>

In publishing this book, Rosenberg once more demonstrated that he was capable of adapting some of the techniques of critical scholarship in order to enhance the chances of his work in the Hasidic book market. The many editions of this work, both in its original Hebrew as well as in Yiddish translation, testify to both the intrinsic appeal of the stories that he presented as well as to the correctness of his strategy.<sup>71</sup>

From the realm of midrash, Yudel Rosenberg next turned his hand to Hasidic hagiography. In 1910, a collection of stories on Rabbi Levi Isaac of Berdichev was published anonymously and has been ascribed to Rosenberg.<sup>72</sup> While the style of the stories in this book, entitled *Nifla'ot Kedushat Levi* [The Wonders of /the author of/ The Holiness of Levi], may indicate Rosenberg's hand at work, there is, at this point, no way of proving his authorship. In 1912, however, he published under his own name a series of tales of the early Hasidic rebbe, Aryeh Leib, the "Grandfather" of Shpole.<sup>73</sup>

In the "Grandfather," Rosenberg had an ideal subject. R. Aryeh Leib was famous in Hasidic lore for his conflict with, and persecution of, one of the most original minds to emerge from the Hasidic movement in the early nineteenth century — Nahman of Bratslav.<sup>74</sup> Despite his fame, however, precious little was actually known concerning this important figure. This situation was tailor-made for Rosenberg to unleash his literary talent.

The collection, entitled *Tiferet Mahar'el mi-Shpole* [The Glory of Rabbi Aryeh Leib of Shpole] was published in 1912 to mark the one hundredth anniversary of R. Aryeh Leib's death,<sup>75</sup> and was collected by Rosenberg, as he states, "from printed books, from sources who are learned sages [*talmidei hakhamim*]" and, especially, from a faded manuscript which, Rosenberg stated, was written by R. Aryeh Leib's servant,

68. Cf. "Wertheimer, Solomon Aaron," EJ volume 16, col. 459.

69. Rosenberg, *Sefer Eliyahu*, p. 4. Cf. the long story extracted from this manuscript on pp. 34-40.

70. Ibid., p. 67.

71. Of all of Rosenberg's works, this one has been republished the most times. I have counted 23 editions, the latest dated 1986.

72. *Nifla'ot Kedushat Levi* (Bilgoray, 1910/11). Cf. Fox, *110 Years*, p. 275.

73. Rosenberg, *Tiferet Mahar'el mi-Shpole* (Piotrkow, 1912).

74. On Nahman, see Arthur Green, *Tormented Master* (University of Alabama Press, 1979).

75. R. Aryeh Leib died in 1812. The centenary is specifically mentioned in *Tiferet*, p. 22.

uscript which, Rosenberg stated, was written by R. Aryeh Leib's servant, Isaac Skvirer, whose descendants, Reb Isaac Orshatov and Reb Hazkele Kalmanovits of Warsaw sold it to him.<sup>76</sup> Rosenberg stated that he copied and edited this manuscript.

Reviewing this work, Gedaliahu Nigal, a student of Hasidic literature, has stated that "there is no doubt that before us is a modern literary creation. The question is who wrote it: the relatives or Rosenberg?" Nigal was satisfied that Rosenberg was the author of much of it, though a considerable portion consisted of reworkings of stories published in earlier hagiographical collections.<sup>77</sup>

An examination of the contents of the stories indicates that Nigal was correct in his analysis. The fact that, in one of the stories, R. Aryeh Leib was made to prevent a blood libel brings to mind the major theme of Rosenberg's Maharaal book.<sup>78</sup> Indeed, the Grandfather is said, in the book, to have been a soul-descendant [*gilgul*] of the Maharaal, which might explain at least part of Rosenberg's interest in his character.<sup>79</sup> Another detail which links the Shpoler tales and those of the Maharaal consists in a literary parallel. In the Maharaal book, a story is told of two men from Romania both named Berel.<sup>80</sup> In the tales of R. Aryeh Leib, a story is told of two men from Romania, both named Mendel.<sup>81</sup>

Finally, Rosenberg's continuing fascination with modern technology, so evident in his non-literary works,<sup>82</sup> is betrayed at one point in the tales when the Shpoler Grandfather is made to say:

What we do on earth is "photographed" and preserved in heaven with live action [*hayyut u-tenuah*]. Know that in the future on earth men will be able to make such a miracle to make photographs which have motion and sound and to record what happens at that time even after hundreds of years [have passed].<sup>83</sup>

In this volume, Rosenberg demonstrated, in yet another genre, the ability to make use of aspects of the "outside" scholarly world to enhance the credibility and, presumably, the sale of his book. Beyond claiming to base his work on the discovery of a manuscript, he also published letters that he received from informants, such as the current incumbent of the Shpole rabbinate, who gave him details of the sparse local traditions concerning the "grandfather."<sup>84</sup> This may indicate that Rosen-

76. *Ibid.*, p. 3. Cf. Rabinowicz, *World of Hasidism*, p. 81.

77. Gedalyahu Nigal, *The Hasidic Tale: Its History and Topics* (Jerusalem, 1981), p. 50.

78. Rosenberg, *Tiferet*, pp. 3, 7, 10.

79. *Ibid.*, p. 3.

80. Rosenberg, *Nifla'ot*, p. 41.

81. Rosenberg, *Tiferet*, p. 38.

82. See Ira Robinson, "A Kabbalist in Montreal: Yudel Rosenberg and His Translation of the Zohar," paper presented at the 1987 meeting of the Canadian Society for the Study of Religion.

83. Rosenberg, *Tiferet*, p. 61.

84. *Ibid.*, p. 106.

berg was aware of the ethnographic expedition launched by Solomon Anski in 1911, at the time when Rosenberg must have been compiling the book, which aimed at collecting and preserving ethnographic data from Eastern European Jewry 'which was perceived as undergoing a radical cultural transformation.<sup>85</sup> In any event, it was certainly a move designed to give his book additional "scholarly" credibility.

In 1913, Rosenberg published a sequel to his tale of the Maharal and the Golem, entitled *Sefer Hoshen ha-Mishpat shel ha-Kohen ha-Gadol*. Once again, he claimed to have derived the manuscript that he was publishing from the Imperial Library of Metz, now identified as located in the land of Lotharingia.<sup>86</sup> In this work, there is no mention of the mediation of Hayyim Sharfstein. The manuscript, entitled *Klei ha-Mikdash*, was supposedly authored by a Rabbi Manoaḥ Hendel of France.

The story, which begins in the year 1590, the very year in which the narrative of the *Nifla'ot* comes to an end,<sup>87</sup> assumes that the vessels of the Temple of Jerusalem, which had been captured by the Romans in 70 C.E., were now in the hands of the French and the English, "as is well known among the investigators of antiquity and the scholars of archaeology," and that the breastplate of the high priest was on display at London's "Belmore Street Museum."<sup>88</sup> This assertion would have been plausible to Rosenberg's audience, which "knew" that some of these items had been preserved at the Vatican.<sup>89</sup>

When the breastplate was stolen, the Maharal journeyed from Prague to London. He solved the crime, committed by a Captain Wilson, and converted the thief to Judaism. Rosenberg concluded his tale by asserting that a latter day descendant of this Captain Wilson was none other than President Woodrow Wilson of the United States, just elected to the presidency in 1912, who was rumored to be a philo-Semite.<sup>90</sup>

The story of the theft of the High Priest's breastplate was, in fact, taken by Rosenberg from a story of Arthur Conan Doyle, "The Jew's Breastplate," which was published in 1908.<sup>91</sup> Rosenberg cites Conan Doyle by name in the work as a "great English author and researcher" and states clearly that he has translated part of Conan Doyle's work from Russian.<sup>92</sup> What Rosenberg did with Conan Doyle's story was to "Judaize" it both by making the Maharal the detective-hero of the

85. On the Anski expedition, see EJ, volume 3, col. 35.

86. Rosenberg, *Sefer Hoshen ha-Mishpat shel ha-Kohen ha-Gadol* (Piotrkow, 1913), p. 3.

87. This was noticed by Leiman, "Adventures," note 15.

88. Rosenberg, *Hoshen Mishpat*, p. 4.

89. Rabinowicz, *Hasidism*, p. 195.

90. Rosenberg, *Hoshen Mishpat*, p. 40.

91. Cf. Salomon Alter Halpern, *The Prisoner and Other Tales of Faith* (Jerusalem and New York, 1981), p. 12.

92. Rosenberg, *Hoshen Mishpat*, pp. 5, 40.

piece<sup>93</sup> and by constructing an independent sub-plot concerning two Jewish museum guards (at a time prior to the re-admission of Jews into England in the seventeenth century) who are accused of having engineered the theft.<sup>94</sup>

Rosenberg concluded this work on the same scholarly note by which he began by publishing a letter supposedly written to him from London by Mr. I Werner, "a great sage and investigator of antiquity [and] a Jew devoted to the religion and belief of Israel from the city . . . of London." In his letter, dated April 1, 1913, Mr. Werner gave Rosenberg information on the Conan Doyle story, the likely whereabouts of remnants of the Temple vessels and implements in Italian museums, on the likelihood of Woodrow Wilson's descent from Captain Wilson and on translations of the *Zohar* into European languages.<sup>95</sup>

Later that same year, Rosenberg wrote a series of tales concerning Rabbi Elijah Guttmacher, the Greiditzer Rabbi.<sup>96</sup> It was the only one of Rosenberg's known hagiographical works to have been published solely in Yiddish, though it claims to be a translation of a Hebrew work entitled *Hadrat Eliyahu*. The five tales in the collection, for which Rosenberg claimed literary as well as eyewitness sources,<sup>97</sup> did not center on the figure of the rabbi as in normative Hasidic hagiography.<sup>98</sup> Rather, they concerned Jews caught in the bewildering maze of modernity. Having rejected the life of tradition, they got into various sorts of trouble only to be saved by repentance and by the supernatural power of the rabbi. Perhaps because this work was published only in Yiddish, it is the least concerned with the facade of scholarly research and publication.

The last work that Rosenberg wrote and published in Lodz, though it was published only in 1914, after his emigration to Canada, was his *Sefer Divrei ha-Yamim le-Shlomo ha-Melekh* [Book of the Chronicles of King Solomon]. This collection of tales concerning King Solomon is largely made up of reworkings of various midrashim, including, of course, some which "were not so well known."<sup>99</sup> What is of most interest to us, however, is Rosenberg's claimed use of non-Jewish material in order to present the voyage of the Queen of Sheba to King Solomon as portrayed

93. Goldsmith, without apparently knowing of this particular work of Rosenberg's but only commenting on the Maharal's portrayal in *Nifla'ot*, stated that he took on the character of a Sherlock Holmes. *Golem*, p. 56.

94. Rosenberg, *Hoshen Mishpat*, p. 33.

95. *Ibid.*, p. 40.

96. On this work, see Ira Robinson, "The Uses of the Hasidic Story: Rabbi Yudel Rosenberg and His Tales of the Greiditzer Rabbi," *Journal of Rabbis in Academia* (forthcoming).

97. Rosenberg, "Der Greiditzer," fifth tale, *Rabbi Eliyahu Guttmacher . . . Fun Preissen* (Piotrkow, n.d.), pp. 3, 17.

98. Cf. Robinson, "Uses of the Hasidic Story."

99. Rosenberg, *Sefer Divrei ha-Yamim le-Shlomo ha-Melekh* (Piotrkow, 1914), p. 5.

in the "Chronicles of the Kings of Sheba in the Land of Abyssinia." For this task, Rosenberg stated that he relied upon a number of books written by "researchers into antiquity" which were sent to him from the "library of the city of London which is next to the great university." From this library, Rosenberg claims to have received copies or extracts from the following:

1. *Voyage historique d'Abissinie* by the Portuguese Jesuit, Jeronimo Lobo (Paris, 1728).<sup>100</sup>
2. *History of Kush and the Land of Abyssinia* by Berossus the Chaldean.<sup>101</sup>
3. *Sefer ha-Yalkut* of Yohanan Alemanno in which he copied extracts from a work on alchemy, *Sefer ha-Mazpun*, which was ascribed to King Suleiman I of Abyssinia and which Rosenberg felt might well be a translation of the writings of King Solomon himself, perhaps identical to the "Book of Remedies" hidden by King Hezekiah, and which was extant "in the library of the Kingdom of Arminia and the Kingdom of Sheba which is called Abyssinia."<sup>102</sup>

In all this carefully contrived display of learning, which he might have come across in articles on the Falashas of Abyssinia that had been published in the Hebrew press,<sup>103</sup> Rosenberg was able to continue the illusion of scholarship, thus giving his message more authority as well as holding out the prospect of better sales.

Another interesting aspect of the Solomon book was his meticulous description of Solomon's miraculous throne, which, Rosenberg opined, worked by electricity.<sup>104</sup> Inspired by seeing a model of the Tabernacle [*mishkan*] which was being exhibited in the large cities and which was supposedly making its owners rich, Rosenberg invited craftsmen to build a model of Solomon's throne according to his specifications which could be exhibited "in order to earn much money."<sup>105</sup> Once again we see Rosenberg as opportunist and promoter, though there is no evidence that this scheme ever came to fruition.

The case of Yudel Rosenberg as manufacturer of Judaic texts has its own intrinsic interest. However, it must be seen as well as in the larger context of Hasidic response to the onslaught of modernity. In the aftermath of the First World War, a number of documents related to the origins of the Hasidic movement were supposedly found in the Russian city of Kherson.<sup>106</sup> These documents, which were ultimately dismissed by most scholars as forgeries, but which are still claimed as

100. Ibid., p. 29. The bibliographical reference is valid. Cf. *Encyclopaedia Britannica* [EB] (Chicago, 1961), volume 14, p. 261.

101. On Berossus, cf. EB, volume 3, p. 461.

102. Rosenberg, *Divrei ha-Yamim*, p. 29. Cf. EJ, volume 2, col. 646.

103. There would have presumably been some press reaction to the expedition of Prof. Jacques Faitlovich to the Falashas in the early 1900s. On Rosenberg's reasonably accurate etymology of the word "Falasha," see *Divrei ha-Yamim*, p. 34.

104. Rosenberg, *Divrei ha-Yamim*, pp. 18, 22-23.

105. Ibid., p. 24.

106. Cf. Rapoport-Albert, "Hagiography."

genuine by many Hasidim, reflect the same atmosphere and the same motivations which seem to have driven Rosenberg.

Ada Rapoport-Albert, in her analysis of the Kherson texts, sees their manufacture as going beyond mere greed, though that motivation is not discounted.<sup>107</sup> Rather, she sees them as responding to:

A keen awareness of extrinsic historiographical sensibilities and a novel, extraneously inspired sense of the inadequacy of hagiographical traditions as historical source material.<sup>108</sup>

For her, the Kherson material was both symptom of the breakdown of Orthodox morale due to the onslaught of modern ideologies and modern secular historiography and a creative response to this breakdown. For:

The Kherson Geniza offers verification of hagiography whose traditional modes of authentication had lost their validity through the assimilation, however unconscious, of modern historical criteria.<sup>109</sup>

Like the creators of the Kherson documents, but much more openly and consciously, Yudel Rosenberg was attempting, through his publication of "manuscript" material to offer an "antidote" to secular literature by offering to the public an "Orthodox" scholarship. The many editions of his creative works testifies to the fact that they fulfilled a perceived need within the Hasidic community.

That community, by and large, is doubtless unaware of the liberties that Rosenberg took in his publications. Even those who are aware of their controversial nature, however, would not necessarily see them as aberrant. They know that "printed stories are usually amended in some way, according to the editor's personal whim."<sup>110</sup> Thus, as Jiri Langer wrote in his magnificent evocation of Hasidic life in the era immediately prior to 1914 — the very time of the flowering of Rosenberg's literary talents:

The Chassidim are aware that by no means everything they relate about their saints actually happened; but that does not matter. If a saint never really worked the miracle they describe, it must still have been one such as only he was capable of performing. Rabbi Nachman of Bratzlav goes out of his way to point out that "not everything related about the holy Baal Shem (for instance) is true, but even the things which are untrue are holy if told by devout people."<sup>111</sup>

107. Ibid., p. 130.

108. Ibid., p. 129.

109. Ibid., pp. 130, 132.

110. Jerome Mintz, *Legends of the Hasidim: An Introduction to Hasidic Culture and Oral Tradition in the New World* (Chicago, 1968), p. 6.

111. Jiri Langer, *Nine Gates to the Hasidic Mysteries* (New York, 1961), p. 23.

# Further on Women's Hair Covering: An Exchange

## *Tradition, Modesty and America: Married Women Covering Their Hair*

MICHAEL J. BROYDE

MARC SHAPIRO'S ARTICLE, "ANOTHER Example of 'Minhag America'," JUDAISM, 39:154 (1990), begins with an interesting premise — an attempt to explicate the "tradition" that married women do not cover their hair despite the apparent *halakhic* obligation to do so. Mr. Shapiro's article is flawed, however, in a number of ways, each of which undermines the purpose of the article, and whose sum total leave the reader with misunderstandings of *halakhah* and how it works. The first significant error is the mixing of two unrelated topics — mixed seating in the synagogue and married women not covering their hair. While he claims that both are examples of custom triumphing over law, in fact, the two cases are readily distinguishable. Mixed seating in the synagogue cannot be justified *halakhically*, and can be validated only extra-*halakhically*. Married women not covering their hair has a basis, albeit a minority one, within *halakhah*, and, thus, need not be justified externally to *halakhah*. The second pivotal error is related to the first: Shapiro fails to mention any significant opinions within *halakhah* which sanction the practice of married women not covering their hair.

The essential theme of Shapiro's article is that the phenomenon of married women not covering their hair in violation of *halakhah* represents another example of Professor Gordis' thesis that tradition or custom (*minhag*) can, and does, override *halakhah* on occasion.<sup>1</sup> Further more, Shapiro maintains that the tradition of married women not covering their hair is an example of "*minhag America*" as Gordis uses the term. Shapiro attempts to defend this "non-*halakhic*" tradition by quoting

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1. Professor Gordis maintains that, in many circumstances, custom can triumph over law, and mixed pews in the synagogue is one example of that: Robert Gordis, "Seating in the Synagogue: Minhag America," JUDAISM, 47, Winter 1987.

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from the *Yad Halevi*, a work written in America during the 1920s<sup>2</sup> and, in Shapiro's opinion, the sole *halakhic* defender of the "new" tradition. Finally, Shapiro concludes that Gordis is correct, and that *minhag* can, in fact, triumph over Jewish law.

## I

As an initial matter, Shapiro and Gordis fail to distinguish between changes in the principles used by *halakhah* and differences in results provided by *halakhah* to questions based on novel social or technological situations. Few would deny that *halakhah*'s response to any given question depends on the factual reality of the times. To say that 500 years ago it was improper for a man to pray in front of a woman whose hair was uncovered, but that it is not now prohibited,<sup>3</sup> does not demonstrate a change in the *halakhah*. Rather, it demonstrates the consistent application of a principle — in this case, not to pray in the presence of potential sexual stimulation — to diverse factual settings. In one society, hair was considered erotic, while, in another, it was not. Different decisions frequently result from the consistent application of fixed principles to dissimilar settings.

For example, applying the prohibition for men to dress in women's clothes and vice-versa (a fixed legal principle) to dissimilar sociological settings produces diverse results; yet that does not demonstrate that the underlying legal principle has changed. In one society *halakhah* may prohibit women from wearing pants and men skirts, and in another society the opposite results may be produced. Such dissimilar conclusions occur in all legal systems, and are not matters for controversy. The critical issue is whether principles, and not results, change.

Thus, the first error made has its origins in Professor Gordis' original thesis of "*minhag America*." Shapiro continues an improper methodology, one undoubtedly related to the underlying concept that Gordis wished to prove — that the principles used by *halakhah* change.

Second, Shapiro's and Gordis' insistence that the tradition of the people not to observe can change an undisputed legal principle is, itself, wrong. Gordis is undoubtedly correct when he asserts that, factually, most Jews pray in synagogues in which men and women sit together. Non-observance does not demonstrate a change in the *halakhah*. All that it establishes is that Jewish law is not obeyed by all Jews — certainly

2. Shapiro's statement that the *Yad Halevi* is the sole *halakhic* source defending the practice of women not covering their hair is similar to a parallel assertion in Professor L. Epstein's work, *Sex Laws and Customs in Judaism* (KTAV, 1948), p. 55 n. 146, where Epstein states that the *Yad Halevi* is a "daring" defender of the practice of many women not to cover their hair.

3. As most modern authorities maintain; see Rabbi Y. Epstein, *Arukh HaShulhan* 75:8; Rabbi M. Feinstein, *Iggrot Moshe, Orah Hayyim* 1:39, 42; Rabbi O. Yosef, *Yalkut Yosef* 1:125 n. 4 (in the name of most decisors).

not a novel phenomenon. So, too, Shapiro's assertion that, standing alone, women's practice of not covering their hair justifies the practice as "*minhag America*" is incorrect.

*Minhag* as a legal tool is limited to deciding which of various *halakhically* tenable positions is the one that should be followed; it cannot be used to justify what is undeniably impermissible. As numerous authorities have stated in many different circumstances, "custom [*minhag*] can decide disputes between the various authorities." No one maintains that custom determines the proper practice where no dispute among decisors exists.<sup>4</sup>

However, decisors of Jewish law *do* look to the traditions of observance of the people as a tool to evaluate the acceptability of various *halakhically* tenable positions.<sup>5</sup> Gordis' article is still flawed, however, because he insists on looking towards the wrong audience to determine the tradition. Gordis uses the concept of "*minhag America*" to justify mixed pews, although Jews who are generally observant of *halakhah* do not pray in such synagogues, and would not do so, as they believe that mixed-pew synagogues are in violation of Jewish law. Gordis is forced to maintain that, in looking to determine "*minhag America*," one must look toward the Jewish population at large, be it generally observant or not, to establish the proper tradition.

This approach has little merit. Only the traditions of people who are generally observant of *halakhah* ought to be considered when

4. For a short essay on this topic, see Rabbi Y. Engel, *Gilyonei HaShas*, Rosh Hashanah 15b, and the numerous sources cited therein. It is important to realize that not every published work, particularly in our era when many rabbis publish their own works, represents an "authority" upon whom the custom can rely. As Rabbi David Cohen of *Gevul Yavez*, Brooklyn, stated (in a letter to this author) in the context of discussing Rabbi Hurewitz and the *Yad Halevi*, "Being published does not make one into a decisor."

5. Many decisors look to the traditions of the community to determine the validity of a practice. For example, Rabbi Karo states in the *Shulhan Arukh* (*Yoreh Deah* 115:2) "It is prohibited to eat cheese produced by a Gentile." The glosses of Rabbi Isserles (RaMA) add "That is the tradition and it should not be broken, *unless one has an ancient tradition permitting it.*" Since a number of early authorities permitted this type of cheese to be eaten, a permissive tradition based on their rulings need not be abrogated — even though such a tradition accepts as correct a position that has been generally rejected. The scope of deference to *minhag* is undoubtedly one of the key differences between the various decisors. See, e.g., H. Soloveitchik, "Religious Law and Change: The Medieval Ashkenazic Example," *AJS Review* 12:2 (Fall 1987): 205-223 (arguing that the members of one of the schools of Tosaphists were sufficiently confident in the general traditions of their community that they would re-examine talmudic sources in an attempt to justify the practices of the community); M. Tendler, "Halachic Response to Societal Change," *Halachic Process and Contemporary Issues* (Yeshiva University, 1991) (forthcoming) (the tradition of part of society to make new customs; furthermore, typically, the legal custom of the Jews is the end result of *minhag* that has encompassed *halakhic* concerns and expressed it in the form of *minhag*.); Justice M. Elon, *Hamishpat Ha'Ivri*, p. 596-607 (3d ed., Magnus Press, 1987) (tradition is a tool for deciding between various *halakhically* tenable positions) (forthcoming in English).

evaluating the correctness of a custom. “*Minhag America*,” as used by Gordis and Shapiro, can prove the triumph of non-observance over observance in many areas and can supplant any value that *halakhah* has. “*Minhag America*,” in the sense of the tradition of most Jews in America, is not to keep kosher or observe *taharat hamishpahah* (family purity laws), and to work on the Sabbath. Close to a majority of American Jews intermarry, and a majority inter-date. Premarital relations are as common in the non-observant Jewish community as in the general community. The *halakhah*, however, gains nothing through such statistics, since the population surveyed does not value Jewish law as a source of guidance. *Minhag* as a *halakhic* concept must be limited to those who care about observance generally and whose conduct deserves the presumption of validity that makes *minhag* worth deferring to.

The essential value of *minhag* within *halakhah* is that it represents a tradition of observance. When a large percentage of observant individuals maintain that their tradition is to do something that is apparently at variance with the law, *halakhic* decisors should pause to determine if the tradition has a basis in law that has not yet been explored. The concepts of “the tradition of our parents” (“*minhag avotenu*”) and “the tradition of our community” (“*minhag hamakom*”) justify not only strictures, but, also, liberalities. Surely neither Gordis nor Shapiro is satisfied with a version of Jewish law which accepts as proper the conduct of 51% of the Jewish born population: such is not the path of a system of divine laws.

## II

But, yet, Shapiro’s analysis of hair covering is more troubling than Gordis’ analysis of mixed pews, because Shapiro alleges that most religious married women do not cover their hair, a practice, he maintains, that does not conform to the requirements of normative *halakhah*. To prove his point that the *halakhah* mandates hair covering, Shapiro briefly surveys the *halakhah* and cites what he believes is the lone defender of the “American tradition” of non-observance — Rabbi Hurewitz, and his work, the *Yad Halevi*.

Upon further analysis, however, one sees that the issue of whether *halakhah* mandates that married women must cover their hair is not nearly as clear as Shapiro claims. He is simply wrong as a matter of fact when he states that

Epstein [the *Arukh HaShulhan*] viewed the basic law that a married woman had to cover her hair as eternal and not admitting of any change, no matter what the circumstances. *This was also the opinion of all of the rabbinic authorities in the world with one notable exception, Rabbi Isaac S. Hurewitz.*

\* \* \* \*

[S]ince no contemporary rabbinic authority has accepted Hurewitz’ position, perhaps

there is no *halakhic* alternative [but for married women to cover their hair].

He understates the scope of rabbinic decisors who have concluded that married women's obligation to cover their hair is based upon societally delineated modesty grounds and, thus, no obligation to cover exists in a society in which chaste women generally do not. If there is a "*minhag*" at work here, it perhaps is to accept a minority opinion within *halakhah* as the one followed by certain Orthodox communities. It is not analogous to mixed seating in the synagogue — something which even Gordis acknowledges has no *halakhic* validity — because uncovering hair by married women has some basis within *halakhah*. It is methodologically well accepted within the *halakhah* to rely, in appropriate circumstances, on well established minority opinions — and this is even more true when these opinions are in harmony with the *minhag*.<sup>6</sup>

### III

The number of latter-day authorities (*Ahronim*) who have addressed the issue of married women covering their hair and ruled that such conduct is permissible is — as I shall indicate below — certainly more numerous than merely Rabbi Hurewitz, a twentieth-century authority whose renown comes from both this position and his opinion that it was now permissible to drink some types of *stam yayin* (wine made by non-Jews).<sup>7</sup>

The theoretical underpinnings for not requiring married women to cover their hair, according to *halakhah*, must derive from the conclusion that the Talmud's statement (*Ketubot* 72a), which apparently labels such uncovering as a Biblical prohibition, is either disputed elsewhere in the Talmud, was not meant literally (*asmakhta*), or applies only in a society where women generally cover their hair. If any of these is true, the principle involved could thus be one of prohibiting that which is immodest rather than an objective and immutable Biblical prohibition. On the other hand, if it is established that the prohibition is Biblical and immutable, then the tradition of Jewish women not to observe would have no impact on the *halakhah*.

6. Literally dozens of examples of reliance on a minority position because it is the tradition of the Jewish community can be found in the *Shulhan Arukh* or the glosses of the RaMa. For a few examples, see *Shulhan Arukh*, *Yoreh Deah* 112:6, 115:2, 151:2, 192:4; *Even Ha'ezer* 3:1, 21:5; *Orah Hayyim* 8:6, 28:11, 37:3; *Hoshen Mishpat* 2:1, 3:1, 5:1, 28:17; see also note 5.

7. The *Yad Halevi* was a work of considerable controversy when it was first published, and was reviewed quite unfavorably by a number of rabbis and scholars; see Rabbi R.M. Barishansky, "Response to Rabbi Hurewitz' *Yad Halevi*," *Degel Israel*, June/July, pp. 16-18 (1928). Other reviews of the *Yad Halevi*, as well as a reply from Rabbi Hurewitz, appeared in the April, May, August, and September 1928 issues of this paper. Within the various reviews are references to other unfavorable reviews.

Perhaps the most eminent later decisor (*aḥron*) to have ruled that the underlying legal principle at work here is that women must dress modestly, rather than that married women must cover their hair, was Rabbi Yehoshua Babad (the father of Rabbi Joseph Babad, the author of the *Minḥat Ḥinukh*), in Responsa *Sefer Yehoshua*, #89. He states:

If the tradition had been that married women went with their hair uncovered and single women with their hair covered, then it would be prohibited for single women to go uncovered, and married women could walk around uncovered. . . . All is dependent on the tradition (*minhag*) of the women.<sup>8</sup>

A number of other modern authorities have accepted this rationale as well. For example, Rabbi Yosef Chaim, the author of the famous Sephardic *Ben Ish Hai* code, in his *Sefer Hukei Hanashim*, ch. 17 (which was written in nineteenth century Arabia) states:

It is prohibited for a woman to reveal any part of her body; only her face, neck and hands may be revealed. . . . However, the women of Europe have commenced . . . to uncover their faces, neck, hands and heads [hair]. It is true, they uncover their hair — according to our law it is prohibited — but yet they have a justification, because they say that the tradition has become accepted, both among the Jews and other nations where they live, to accept uncovering of hair, like the uncovering of the face and hands, as not causing provocative thoughts . . .

This rationale appears to have been accepted, at least in theory, by the *Mahazit Hashekel* (commenting on *Even Ha'Ezer* 21:5), when he states that the reason why single women do not cover their hair is that the standards of observant women in society determine the permissibility of uncovering. He states that this is so even according to those authorities who consider it a Biblical obligation for single women to uncover their hair.

Similar sentiments can be found in *Sefer Sanhedrai*, pp. 201-202; *Responsa Masat Moshe*, *Even Ha'Ezer* 8; *Yeshuot Yakov*, *Even Ha'Ezer* 21:3 (responsa of R. Zvi Hirsch Aurinstein printed in text), 115:3. In fact, numerous other authorities can be found who support this approach.<sup>9</sup>

Among contemporary decisors, Rabbi Yosef Masas, an eminent Sephardi decisor, in his Responsa *Mayim Haim* 2:110 and his *Ozar Mikhtavim*

8. See also Responsa *Maharaz Hayes*, #53; Responsa *Mayim Rabim* 3:28.

9. See Dov Frimer, *Grounds of Divorce due to Immoral Behavior (other than Adultery) in Jewish Law* (Hebrew with English synopsis), Doctoral Dissertation, Hebrew University (1980), pp. 102-104 and, particularly, n. 161. His list includes many authorities not quoted in this article. He specifically quotes Rabbi Gershuni's opinion discussed later. Rabbi Frimer covers much of this field extensively, and collects many, although not all, of the decisors who link hair covering to societal norms. This work is the best starting point for any research into the scope of the prohibition for married women uncovering their hair. It addresses numerous details of the prohibition, including how much hair needs to be covered (pp. 106-107) and whether any covering is needed within one's own house or in the house of another (pp. 109-110, and, particularly, n. 172). These important issues are not addressed in this article.

#1884, after establishing that no Biblical prohibition is violated by uncovering, states:

[T]he obligation for women to cover their hair is based only on custom. In the past such conduct was thought to be a sign of modesty and one who acted contrary to the custom was indiscreet. However, now that all women agree that such conduct is neither lewd nor immodest, covering of hair is not a sign of modesty ... and the prohibition disappears.

So, too, Rabbi Yehuda Gershuni, in conversation with this author as well as others, has expressed the opinion that the obligation to cover does not apply when, in society at large, women do not cover their hair. He reaches this conclusion by first positing that no Biblical prohibition is involved, and then by demonstrating that, as a general rule, rabbinic regulations concerning modesty are time bound. He recounts that a number of his teachers agreed with this approach. His mode of analysis is similar to the reasoning of Rabbis Masas, Babad and Chaim (and Hurewitz). The opinions of Rabbis Gershuni and Masas stand in sharp contrast with Shapiro's assertion that "no contemporary rabbinic authority has accepted Hurewitz' [the *Yad Halevi's*] position."

Yet other authorities advance rationales for the prohibition of married women not covering their hair which indicate that married women need not cover their hair if religious women generally do not. By categorizing the prohibition to uncover in the manner they do, these decisors indicate that the prohibition is time (or place) bound. Some of these authorities are, for example, *Sefer Eleh HaMizvot* (Rabbi Chagiz), *Mizvah* 262; Rabbi Perlow, *Sefer Hamizvot Shel Rav Saadia Gaon*, 1:650; Responsa *Shevuot Yakov, Even Ha'Ezer* 103; Responsa *Dai Hashiv, Even Ha'Ezer* 4; Rabbi M.Z. Cohen, *Tipheret Moshe* 2:10 (p. 292).

Additional authorities focus on the linguistic ambiguity in the Hebrew word "*per'iah*," which is the word used in Numbers 5:18, the verse that is the basis for the prohibition. These authorities argue that, while a Biblical prohibition is involved, it is only for women not to go with their hair disheveled, which they claim is what the word *per'iah* means, rather than uncovered; see *Magen Avraham*, commenting on *Shulhan Arukh, Orach Hayyim* 75:1 (#1-3); *Yad Efraim* commenting on *id.*; *Peni Moshe*, commenting on *Even Ha'Ezer* 21:2 (in *Mareh Hapanim* #2); Rabbi A. Hoffer, "Which Disheveling [Uncovering] of Hair for Women is Biblically Prohibited?," *Hazofeh Lehakhmat Yisrael* 12:330 (1928); see generally Rabbi M. Kasher, *Divre Menahem, Orach Hayyim* 5:2:3.

In short, there are quite a number of authorities, although without a doubt a small minority of the latter decisors,<sup>10</sup> who think that married

10. Almost all contemporary decisors maintain that a Biblical and immutable rule requires married women to cover their hair; see Rabbi O. Yosef, *Yekhaveh Da'at* 5:62; Rabbi E. Waldenburg, *Ziz Eliezer*, 7:48:3; Rabbi M. Feinstein, *Iggrot Moshe, Even Ha'ezer* 1:53; Rabbi Y. Weinberg, *Seride Aish*, 3:30. It is quite possible that Rabbi Weinberg was unsure if the requirement was actually Biblical in nature or only tradition-based; see Rabbi Y. Weinberg, "Married Women Covering Their Hair," *Ha'Ma'ayan* 5:1, 8 (1965).

women do not have to cover their hair in our society since that conduct is not a sign of modesty. Thus, uncovering hair perhaps can be *halakhically* justified by reliance upon these, and other, rabbinic authorities. The *minhag* here, as in many other cases within *halakhah*, might be merely to rely on minority, although by no means singular, opinions of respected decisors. Such an approach is neither extra-*halakhic* nor surprising. There is no need to resort to extra-*halakhic* sources, and adherents of *halakhah* do not accept the validity of such as a source of authority.

#### IV

Even had all of these sources been analyzed, however, the picture would still be barely painted. Any discussion of this topic, like all topics in Jewish law, must start with the Talmudic sources to determine what positions are tenable within the law. In this case, the explicit Talmudic statement (*Ketubot* 72a) that the prohibition involved in uncovering hair is objective and Biblical must be addressed, as must any other relevant portions of the Talmud and talmudic literature.

Furthermore, even if uncovering were tenable within the talmudic texts, in order to determine if there is any actual basis in Jewish law to permit uncovering, an analysis of the relevant earlier authorities (*rishonim*) would have to be undertaken, as would a study of the *Shulhan Arukh*,<sup>11</sup> its commentaries and other codes. None of this was done in Shapiro's article — perhaps because its purpose was not to demonstrate the viability of *halakhah*, but, rather, to support the proposition that tradition is more significant than law.

#### Conclusion

In sum, Shapiro's article suffers from three distinct flaws:

- 1) The article misconstrues issues by equating the use of mixed pews in the synagogue, a practice for which no *halakhic* justification can be found, and married women not covering their hair, a convention which has some basis within *halakhah*.
- 2) It confuses the consistent application of legal principles to diverse factual settings with a change in underlying legal principles. It tries to prove the existence of the latter from the former.

11. Although this is not the forum to address this issue in detail, it is worth noting that both the *Tur* and the *Shulhan Arukh* do not state that the prohibition for married women uncovering their hair is a *dat Moshe*, the "code words" for Biblical and immutable prohibitions. Rather, they explicitly edit their quotations of Maimonides on this topic so as to transfer all references to uncovering hair in *Even Ha'ezer* 115 to *dat Yehudit*, the "code words" for rabbinic (and, perhaps, societally subjective) prohibitions. So, too, the discussion of this topic found in *Even Ha'Ezer* 21 is in a context of purely rabbinic prohibitions. The reason for this reformulation needs further elaboration. See also note 14.



3) In order to demonstrate the lack of rabbinic support for the proposition that married women need not cover their hair, and, thus, the triumph of *minhag* over *halakhah*, it incompletely quotes from the rabbinic sources.<sup>12</sup>

The last flaw is particularly serious since Shapiro's failure to refer to virtually any of the significant rabbinic authorities sanctioning the practice of women not covering their hair (rather than the actual absences of such authority) gives unjustified credibility to his assertion that the practice of many religious women can be justified only extra-*halakhically*, or through the triumph of "*minhag America*" over *halakhah*.

Thus, by overlooking opinions justifying a common practice, the value of Jewish law as guidance to its adherents is diminished, and the value of *minhag* is overstated. The certain consequence, even if not the intended goal, is to undermine the viability of Jewish law.

The question that still needs to be fully addressed is: does the law that married women must cover their hair fall into the category of society-dependent or is it immutable? An overwhelming majority of modern authorities believe it to be immutable;<sup>13</sup> some think that it changes with time. The basis in the Talmud and early commentators for the position that the obligation to cover is modesty-based and, therefore, can change with society, have yet to be fully elucidated.<sup>14</sup>

Regrettably, Shapiro's article has done little to clarify this particular issue or the larger matter of the relationship between *minhag* and *halakhah*.<sup>15</sup>

12. This error is compounded by footnote six of Shapiro's article, where he acknowledges the existence of only one other work on this topic, and then argues that it is a non-rabbinic text. No other authorities are mentioned to justify the practice.

13. See note 10.

14. I have a manuscript circulating on the topic of married women covering their hair which attempts to provide a basis within the Talmud, *Rishonim*, and *Shulhan Arukh*, for the position that the obligation for married women to cover their hair is based on societally defined concepts of modesty (*dat Yehudit*). The proper forum for such an article is a more specialized rabbinic journal where articles dedicated to discussions of classical Jewish law are presented, rather than a popular Jewish periodical, even one as respected as JUDAISM, where full discussion is both impossible and inappropriate.

15. In the final paragraph of his article, Shapiro gives two other examples of what he thinks are changes in the *halakhah*; the prohibition for men to greet women, and for women to be teachers. Neither example strengthens his thesis that the principles used by the *halakhah* change.

More than 600 years ago, Rabbi Yom Tov Ashveili [Ri'TVA] ruled that the prohibition of greeting a woman applied only if that conduct is considered immodest in society at large. Thus, the prohibition is society-based and changeable. This position is quoted in many standard rabbinic works such as the *Pit'hei Teshuvah*, *Even Ha'Ezer* 21:6 and the *Ozar Haposkim*, *Even Ha'Ezer* 21:6. Each of them quotes both modern and early authorities who agree with this understanding.

Even without further analysis, a careful reading of the *Shulhan Arukh* (*Even Ha'Ezer* 22:20) limits the prohibition of women teaching to those who are not married, or who are married and separated [*ba'aloh lo ba'ir*] from their husbands. Furthermore, most au-

**LILLI KRAKOWSKI reacts to Marc Shapiro:**

Although I've had the Spring 1990 issue a while, I keep rechecking Marc Shapiro's "Another Example of 'Minhag America'" [dealing with women covering their hair] with the uncomfortable yet optimistic curiosity with which one keeps trying on expensive but painful new shoes.

I cannot fault Shapiro's research *as far as it goes*, although I think he is mistaken about bareheadedness being an American *minhag*. Orthodox women in Germany and Holland (I do not know about the rest of Western, Ashkenazic Jewries) did not cover their hair since the Enlightenment anyway, except sometimes in a perfunctory fashion. The hats worn to synagogue also did not meet the requirement that not a hair be in sight. The German *Austutt* did wear wigs — but that was not the whole of Western Orthodoxy.

As for *minhagim* — and whose *minhag* prevails in a new settlement — that is an interesting point, but not one Shapiro (nor, if I recall correctly, Dr. Gordis) addresses. Since the first immigration to the U.S. was Sephardic and the second German, might it not be argued that the pre-existing, albeit more "lenient," *minhag* should prevail?

That is not however what bothers me. What does is that I cannot believe Shapiro's TONE, nor his androcentricity, nor his failure to look at one of the most important of Jewish legal traditions — leniency for the sake of compassion.

Mr. Shapiro found himself some brackets when inserting "the *Shema*, and by extension all prayer" into a quote from the *Shulhan Arukh*. Is there a bracket shortage at Harvard that he could not insert "for men" here and there? Who is this mysterious *one* who may not pray with a married woman's hair in view? Who is this mysterious creature with the lustful thoughts?

Rabbi Hurewitz, whose memory surely is a blessing, was brave — but in saying that Jewish women should not be subjected to "vile disfigurement" he was *following* a tradition of *responsa* that bent the law to better human life. There are plenty of examples but not space to cite them here. Also I am sure Mr. Shapiro is familiar with them. (Some very poignant ones are found in Holocaust *responsa* literature.)

thorities have ruled that this prohibition, which is based on the interdiction against one woman and one man spending time alone together in private, is inapplicable to our modern school system where many students are taught at one time in a designated school building. The ruling only prohibits women from teaching children in the teacher's home and not in the school; see Rabbi M. Feinstein, *Iggrot Moshe, Yoreh Deah* 3:73.

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I am shocked and saddened that Mr. Shapiro does not even consider leniency for the sake of compassion — he is unaware that girls weep bitterly when their heads are shaved — that it is a cruel price to pay for marriage. He seems unaware that a *sheitl* is uncomfortable\* and so on. In fact, his whole article resounds with unawareness that while the abolition of the *mehizah* was for sociability (!) the move away from covered heads has been for the sake of eliminating cruelty, humiliation, ostracism, and pain.

I also am shocked and saddened that JUDAISM let Mr. Shapiro get away with only half his research done. Is a married woman allowed to pray with her own hair uncovered? Or is it an “indecent” body part, and she is not dressed properly for prayer even if alone? May I pray in the presence of a bareheaded married woman? What about a hairdresser? She has several married women sitting under the dryers, or just sitting heads uncovered while dye sets. May she recite *minhah* in her shop? If all this is permitted, because no lustful thoughts would ensue, what about lesbian hairdressers?

Truly I am not being facetious!! The Editors cheerfully (?) allowed Mr. Shapiro to generalize: *viz* to say “one” when he meant “men.” Unless I am very mistaken, women *always* were permitted to teach girls; and certainly their own children. So again, the prohibition against women teachers?

It is perfectly possible that there is no documentation of opinion about hairy women among women etc. *But in 1990 we are entitled to be told that.* As a longtime subscriber to JUDAISM I feel entitled to ask that the magazine be edited — and written — with K'lal Yisrael in mind — and that includes women!

## MARC SHAPIRO replies:

Ms. Krakowski points out that the practice of married women uncovering their hair does not originate in America. She is correct and I never said otherwise. What I did point out was that it was in America that this practice was justified by a halakhic scholar. As for the Sephardic and German immigrations to the U.S. and their lenient *minhagim*, Ms. Krakowski would have had a point if we were dealing with halakhic-

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\* I've heard it said that the shaving of the head came about because always-covered-hair led to scalp diseases!!

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respecting Jews. However, Jews who chose to reject halakhah have obviously lost their authority when one seeks to establish which customs are regarded as valid.

Ms. Krakowski also takes offense at what she perceives as the sexism and lack of compassion in my article. Since her objections are actually directed against the *Shulhan Arukh*, there is no need for me to address them. The same can be said for the accusation that I do not consider leniency for the sake of compassion. Once again, this is a question best directed to the proper rabbinic authorities. For the sake of accuracy let me just note that the practice of married women shaving their heads is not widespread and is found mostly in the Hungarian community.

As to the further questions of Ms. Krakowski, I am unaware of any rabbinic authorities who discuss the case of a lesbian hairdresser who wishes to recite *minhah* in her shop. However, there is a minority opinion which forbids a woman to pray in the presence of another woman who is immodestly dressed.<sup>1</sup> As for women teachers, obviously there never was a problem with a woman teaching her own daughter in the privacy of her home. However, the sources are concerned with a woman teaching in a school no matter who is being taught. The problem concerns the mingling between the teacher and the fathers who come to pick up their children. With regard to a woman teaching boys, there are obvious additional problems as the boys get older. Needless to say, this law is no longer observed, and a number of rabbis have written responsa to justify this lack of observance.

Rabbi Broyde claims that mixed seating in the synagogue cannot be justified halakhically and, in this, both Dr. Gordis and I would agree. My only point in comparing this to the practice of women uncovering their hair is that both are examples of custom triumphing over law, despite the fact that, for a variety of reasons, the Orthodox have not accepted the first of these customs. For the Orthodox, it will always remain a *minhag ta-ut* (mistaken custom).<sup>2</sup>

However, Broyde rejects my contention by asserting that women not covering their hair does have a basis in halakhah. He also asserts that I am mistaken in my assumption that "the tradition of the people not to observe can be used to change an underlying legal principle." He then concludes that "*Minhag* as a legal tool is limited to deciding which of various *halakhically* tenable positions is the one that should

1. R. Isaac Palache, *Yafeh la-Lev* (Izmir, 1872), *Orah Hayyim* 75:2.

2. Mingling of the sexes even during non-prayer contexts raises significant halakhic problems which, to my knowledge, have never been adequately addressed. From an examination of the halakhic sources one is led to the conclusion that, in the eyes of probably all halakhic authorities, the very notion of a co-ed sleep-away camp is much worse than prayer without a *mehizah* and, yet, it is the latter which is rejected by modern Orthodoxy, not the former. Of course, the modern Orthodox notion that many traditional halakhic restrictions regarding mingling of the sexes are no longer applicable illustrates once again the power of *minhag*.

be followed: it cannot be used to justify what is indisputably impermissible."<sup>3</sup>

It is not my place to answer for Dr. Gordis, but, contrary to what Broyde states, it can be shown historically that, when various customs were adopted by the *Torah community*, these were eventually accepted by the rabbis even though the practices were not in accordance with the established halakhah.<sup>4</sup> There are numerous examples that I can refer to, such as the prohibition to lend money without witnesses being present, the obligation to wash one's hands before eating anything dipped in liquid, and the obligation to leave a portion of the house near the door undecorated, in memory of the destruction of the Temple.

It is true that reasons have been advanced to justify these violations; yet, we must not, as Broyde has done throughout his article and, especially, in his last note, put the carriage before the horse. The people did not *begin* to violate the law because of any specific rationale. Indeed, when they did violate it they were rebuked by the rabbis, but to no avail. It was only the later authorities, wishing to show that what had become common practices were not halakhically forbidden, and bearing in mind the notion of *vox populi vox Dei*, that devised all sorts of justifications and eagerly latched onto any earlier authorities that could be used as support. Yet, their justifications have been brought about through what was originally seen and understood as a violation of halakhah.<sup>5</sup>

3. I do not understand Broyde's citation of Soloveitchik's article in defense of his position. Soloveitchik's point is that Jewish suicide in the Middle Ages to avoid baptism was a custom which was opposed to halakhah. That numerous pious Jews could have blatantly violated halakhah was something that the Tosafists found impossible to accept and, so, a "process of reinterpretation began, of justifying the past in light of, and by means of, the intellectual tools of the present.... Once the existing becomes identified with the appropriate (as it does in any vibrant traditional society), this identity can easily spill over and legitimize practices that fall beyond the halakhic perimeter." Soloveitchik sees this as being accomplished through "systematically raising common practice to the level of a quasi-text, and thus allowing its integration into the halakhic process." Tendler's view that the tradition of religious Jews reflects halakhah is too broad a generalization. The responsa literature is packed with examples of rabbis battling against customs which they believed to be erroneous and in opposition to halakhah.

4. Of course, it is important to emphasize, as Broyde does in his criticism of Gordis, that a *minhag* can be regarded as valid only if it was adopted by Jews with a positive orientation to halakhah. An unobservant population can never be an arbiter. R. Zechariah Frankel made this point well over a century ago when someone asked him if his philosophy implied that Jewish worship of the Baal in ancient days was acceptable, since this is what the majority of the nation had been doing. One must understand Schechter's concept of "catholic Israel" in the same way. See, also, R. Eliezer Waldenberg, *Tzitz Eliezer* (Jerusalem, 1985), Vol. 5, p. 23 of Introduction, that only the rabbinic leaders can determine when the people's behavior is faithful to Judaism and when it is in rebellion against the religion.

5. See Jacob Katz, *The "Shabbos Goy": A Study in Halakhic Flexibility* (Philadelphia, 1989), pp. 44-45.

There are numerous such examples throughout halakhah, and I need not elaborate. What is important for our purpose is not whether a halakhic authority can be found to support a deviant practice, but whether this practice developed *independently* of this halakhic authority; i.e., whether it developed originally as an anti-halakhic practice.<sup>6</sup> As to the basic principle which we have been discussing, there is a minority view which holds that a *minhag* can, at times, override even a Biblical law.<sup>7</sup> Many more authorities believe that a *minhag* can override a rabbinical law.<sup>8</sup>

Broyde criticizes me for “under-quoting” the opinions that agree with Hurewitz. He then gives a number of sources which explain the nature of the prohibition for a woman to cover her hair as being societally based. Now the inherent logic of these positions leads one to conclude that had their authors been alive today they might have agreed with Hurewitz. Yet, this is a conclusion which one need not accept. Halakhic decision making, as is all jurisprudence, is based upon the application of earlier rulings to modern situations. One decisor will claim that a

6. An illustrative example of this concerns women's suffrage. When this issue first came up in the early part of this century, there was almost unanimous opposition to it on the part of the rabbinate. The three leading figures in Orthodoxy at the time, R. Abraham Isaac Kook, P. Israel Meir ha-Kohen (*Hafez Hayyim*), and R. Hayyim Ozer Grodzinski, all came out strongly against any women's suffrage (see Menachem Friedman, *Hevrah ve-Dat* [Jerusalem, 1978], chapters 6 and 7). Yet, today, this is no longer an issue, even for most of the very religious women here and in Israel. Now it is not important that certain rabbis did defend a woman's right to vote, because, when the women ignored the rulings of Kook, the *Hafez Hayyim*, and Grodzinski, it had nothing to do with any rabbinical leniencies. Indeed, the current *minhag* of women voting has its origin in a revolt against rabbinic authority, not in an acceptance of a minority view.

7. R. Samuel di Medina, *She'elot u-Teshuvot Maharashdam* (Lemberg, 1862), *Yoreh Deah* no. 193; R. Abraham b. Mordekhai ha-Levi, *Ginat Veradim* (Constantinople, 1717), *Orah Hayyim* 1:34; R. Samson Morpurgo, *Shemesh Tzedakah* (Venice, 1743), Vol. 1, p. 26b.

8. Ra'avad, *Hilkhot Ma'aser Sheni* 1:2 (according to R. Joseph Corcos, *Be'ur Mahari Corcos* [Jerusalem, 1966], *ad loc*, Maimonides agrees with Ra'avad); R. David ibn Zimra, *She'elot u-Teshuvot ha-Radbaz* (New York, no date), no. 967; R. Jacob Hagiz, *Halakhot Ketanot* (Jerusalem, 1981), Vol. 1, no. 4; R. Joseph b. Isaac ibn Ezra, *Massa Melekh* (Salonika, 1600), pp. 56a-56b; R. Issachar Ber Eylenburg, *Be'er Sheva* (New York, 1958), no. 22; R. Hayyim Palache, *Lev Hayyim* (Izmir, 1862), Vol. 2, no. 9 (p. 3b) and no. 75 (p. 37b). According to many, this is also the view of R. Joseph Colon, *She'elot u-Teshuvot Maharik* (New York, 1968), no. 8. Incidentally, many Hasidim who, in most areas, are very strict with regard to halakhah, choose to disregard the explicit halakhot regarding the times for prayer. Rabbinic authorities stopped criticizing this violation many years ago, and it is now accepted as a valid *minhag*, despite the fact that it has never been adequately justified from a halakhic sense. In this regard, it is worthwhile to call attention to the perceptive observation of Dr. Yehezkel Cohen, one of the leaders of the Torah va-Avodah movement. He notes that, even though the right wing Orthodox ignore explicit halakhot found in the *Shulhan Arukh*, they continually criticize the modern Orthodox for the violations found in its camp. “In other words, the demand addressed towards us is that we live, not according to the *Shulhan Arukh* in its original form, but to the ‘improved and corrected’ version as formulated by the Haredi public.” (*Torah and Avodah: The Idea and the Way* [Jerusalem, 1989], p. 23.)

certain formulation of the *Shulhan Arukh* implies a wide-ranging permissive stance, whereas others will dispute this. I am not saying that Broyde is necessarily wrong; only that an inference is not the equivalent of an explicit halakhic decision. Even when the underlying principle of a rabbinic authority is that women must dress modestly, there is no guarantee that they would ever have agreed that uncovering one's hair can be considered modest.<sup>9</sup>

Rabbi Gershuni's opinion was unknown to me, and it is surely significant. Unfortunately, he has not defended his view in print. Other than Gershuni, the only authority whom Broyde quotes who specifically rules that modern Jewish women need not cover their hair is R. Joseph Mashash, the former Sephardic chief rabbi of Haifa who died in 1974.<sup>10</sup> Unfortunately, I became aware of this decision only after I had completed my article. I have also recently become aware of the decision of R. Matityahu Tzurmani, the rabbi of Bucharest at the turn of the twentieth century, who also agrees with this view.<sup>11</sup>

Still, all of this does not contradict my point. Each of these rabbis was confronted in his own district with the same problem as Hurewitz; namely, that women chose to disregard the halakhah. It was this which forced them to justify the women's behavior. When the women began uncovering their hair there did not exist any justifications upon which to base this practice. In other words, *the deviant practice by the women was the catalyst for these rabbis' lenient decisions — not the other way around.* Needless to say, the justifications of Mashash and Tzurmani were strongly opposed by all significant rabbinic figures and, contrary to Broyde's assertion, he has not presented us with "quite a number of authorities" who agree with this view.

Broyde seems to misunderstand my point when I say that it was the deviant practice that caused a change in the halakhah. To refute me, he points to a couple of halakhic authorities who agreed with Hurewitz and concludes that, since there is some halakhic support for this *minhag*, I am in error. He writes: "The *minhag* here, as in many other cases within *halakhah*, might be merely to rely on minority, although by no means singular, opinions of respected decisors."

9. In a letter to me, R. Gedalyah Babad, a descendant of R. Joshua Babad, argues forcefully against any suggestion that the elder Babad's view could be used to permit contemporary women to uncover their hair. R. Gedalyah has recently reissued his forefather's responsa in a new format (*Sefer ha-Vatik* [Jerusalem, 1990]).

10. Incidentally, Mashash's responsa are loaded with radical decisions which I plan to discuss at some future date. Regarding him, Moshe Alharar writes: "The thing which stands out in all his books is the great originality which is seen in practically every area he discusses. Such logic and clarity is seldom found." *Li-Khvodah shel Torah* (Jerusalem, 1988), p. 48, note 5.

11. His responsa are found in R. Joseph Burla, *Va-Yeshev Yosef* (Jerusalem, 1905), *Yoreh Deah* nos. 1-3. Regarding him see Ya'akov Geller, *Zemihatah u-Shkiatah shel Kehillah* (Jerusalem, 1985), p. 256.



Once again, as I have already pointed out, Broyde is putting the carriage before the horse. I have never denied that halakhic justifications can be advanced to justify the practice of the women; my entire article was an explication of Hurewitz' attempt at just that. What I have said is that it was the deviant practice of the women which caused Hurewitz, and any other rabbi for that matter, to interpret the law so that this *minhag* might be given some sort of halakhic acceptability. Historically, the *minhag* which we are discussing never "relied" on minority opinions. Rather, it originated against all rabbinic objections, and it is the minority opinions that were created to justify the *minhag*. Even today, most Orthodox women who uncover their hair are unaware that any rabbi has approved of their action. This is not surprising, for they have never looked to any halakhic authority for support.

In my article I said that, unlike the example of mixed seating in the synagogue, the *minhag* of married women uncovering their hair had one authority who was willing to support it. Now we see that Hurewitz was not alone in this view. With this in mind, one should call attention to the forceful comments of R. Hayyim Pontremoli, one of the leading Sephardic halakhists of the nineteenth century, in his discussion of a certain *minhag* which violated the *Shulḥan Arukh*. He writes that, whereas it was the practice of the scholars to be stringent and follow the *Shulḥan Arukh*'s ruling, [nevertheless,] "as long as there was some halakhic support for the [contrary practice of the] community, *even a single opinion which was in dispute with the Shulḥan Arukh*, the scholars would not protest, and allowed the community to continue with their practice."<sup>12</sup> Once again we see the great power of *minhag*.

12. *Petaḥ ha-Devir* (Izmir, 1873), 253:2. A similar opinion was earlier expressed by R. Isaac Tayyib, *Erekh ha-Shulḥan* (Livorno, 1791), *Orah Ḥayyim* 651:2.

# *Ethics and the Liturgy of Conservative Judaism*

JEFFREY RUBENSTEIN

THE REFORMERS OF 19TH CENTURY Germany perceived a need to publish new prayerbooks which reflected the ethical outlook of their reinterpretation of Judaism. Since the basis of Judaism in Reform ideology had shifted from ritualism to morality, the liturgy required corresponding changes. Great efforts were made both to introduce moral values that were perceived to be lacking or underemphasized in the traditional liturgy, as well as to delete prayers expressing values antithetical to the moral thinking of the reformers, a thinking heavily influenced by the currents of German moralism of the time. The same pattern is true for members of the Reform movement in America, who sought to bring the liturgy in line with American ethics. Their ethical ideals, expressed clearly in the Pittsburgh Platform of 1885, required some adjustment from the moralism of their German counterparts,<sup>1</sup> and resulted in the publication of a number of Reform prayerbooks, including the famous *Union Prayer Book* of 1884-5.

All this should come as no surprise. The fundamental assumption of the critical study of Judaism is that Judaism does not exist independent of its historical and social context. Historical and social factors — the political environment, economic circumstances, social system, geographic considerations, and, to be sure, ambient ethical outlook — influence the nature of Judaism in all times and places. Appropriately, the chronicle of the influence of ethics on Reform liturgy has received extensive study and detailed documentation.<sup>2</sup>

1. On this adjustment and the struggle that it produced, see Michael Meyer, *Response to Modernity* (New York, 1988), pp. 250-260.

2. The two most comprehensive studies are Jakob J. Petuchowski, *Prayerbook Reform in Europe: The Liturgy of European Liberal and Reform Judaism* (New York, 1968) and Ismar Elbogen, *Hatefila beyisra'el behitpathuta hahistorit*, revised and edited by Joseph Heinemann (Tel Aviv, 1972), pp. 292-328. See also Lou H. Silberman, "The Union Prayer Book: A Study in Liturgical Development," in Bertram W. Korn, ed., *Retrospect and Prospect: Essays in Commemoration of the Seventy-Fifth Anniversary of the Founding of the Central Conference of American Rabbis 1889-1964* (New York, 1965), pp. 46-61; Samuel S. Cohon, "The Theology of the Union Prayer Book," in Joseph Blau, ed., *Reform Judaism: A Historical Perspective* (New York, 1973), pp. 257-284; A.Z. Idelsohn, *Jewish Liturgy and its Development* (New York, 1932), pp. 268-300; Eric L. Friedland, "Olath Tamid by David Einhorn," *HUCA* 45 (1974): 307-32. See, too, the extensive bibliography in Elbogen, pp. 326-328.

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Not so for the Conservative Movement. Since it has flourished for over a century now on American soil, and has merited the publication of six complete prayerbooks, not to mention assorted other liturgical compositions (Passover Haggadah, Slihot Service, Rabbis' Manual, etc.), we should expect to find some influence of American moralism on Conservative liturgy, as we do with Reform. Yet, a study of this topic is almost completely wanting.<sup>3</sup> True, the Conservative movement has not made the radical changes characteristic of Reform prayerbooks, such as deleting entire prayers, substituting modern compositions, and completely restructuring the service, methods which reveal the ethical ideals of the editors in no uncertain terms. But this only means that the influence will be more subtle and elusive, though no less present, and the challenge to the scholar more formidable. Robert Gordis has observed that "the *Sabbath and Festival Prayer Book* probably did more than any other undertaking to give coherence and self-definition to the growing movement of Conservative Judaism."<sup>4</sup> What is true for the *Sabbath and Festival Prayer Book* is true for the other Conservative prayerbooks, and a growing part of that self-definition involves the movement's ethical vision. It is the challenge to document and analyze the influence of ethics on Conservative liturgy to which we now turn.

But, first, a word on methodology. If the Conservative Movement has not radically restructured services or rewritten prayers, it has, nonetheless, availed itself of certain techniques to modify the liturgy and introduce its moral ideals. Three main techniques have been employed: changes in the Hebrew text, translations, and editorial comments.

To introduce changes into the Hebrew text of the prayerbook is the most radical means of modifying the liturgy. Strictly speaking, the liturgy was never canonized. No single "traditional" text of the prayers ever served as the common inheritance of all Jews. Nevertheless, a relatively standard Ashkenazic liturgy gradually developed, and became the legacy of most Jewish communities in Europe and then in America. The range of documented readings is limited, and those that diverge from this range are easily identified. Now the Conservative movement is, of course, rather conservative. In the realms of both law and liturgy,

3. See Robert Gordis, "A Jewish Prayer Book for the Modern Age," *Conservative Judaism* 2 (1972): 1-20 (This article, in a modified form, serves as the introduction to the *Sabbath and Festival Prayerbook*.); Deborah Reed Blank, "Sh'fokh Hamatka and Eliyahu in the Haggadah: Ideology in Liturgy," *Conservative Judaism* 38 (1987): 73-86. Gordis has alluded to changes which reflect development in the ethical outlook of Conservative liturgy in his "Process and Pluralism," *JUDAISM* 37 (1988): 53-56. There are also several reviews of Conservative prayerbooks, for example, Jakob J. Petuchowski, "Conservative Liturgy Comes of Age," *Conservative Judaism* 27 (1972): 3-11.

4. Robert Gordis, "The Struggle for Self-definition in Conservative Judaism," *Conservative Judaism* 39 (1987): 7-19. See, too, the extremely insightful chapter by Lawrence Hoffman, "American Jewish Liturgies: A Study of Identity" in his *Beyond the Text* (Indiana, 1987), pp. 60-74.

the movement does not whimsically alter inherited traditions. Therefore, any changes introduced indicate that a pressing need was perceived. In the context of liturgy, this need is generally a theological discomfort with the traditional text or the feeling that important values are lacking. With respect to ethics, this need is a discomfort with passages that seem unethical or the sense that important ethical ideals are underemphasized. Thus, changes in the Hebrew text, whether they take the form of deletions of offending passages, supplemental words, phrases, or entire prayers which fill a perceived lacuna, or modifications of the inherited text, represent the strongest evidence of influence on the liturgy.

Translations are a second means by which the theology of a prayerbook can be determined. In many cases where theological discomfort with the Hebrew text is felt, the editor will not wish to go to the lengths of changing it. Tradition carries a great deal of weight. A less radical means of coping with the theological discomfort is to introduce the change into the English translation. This can be seen as a type of midrash on the Hebrew. The Hebrew is interpreted in a non-literal manner which coheres better with the translator's theology. Changes introduced into translations are less easy to detect, and require methodological caution. No two languages share identical syntax, vocabulary, idiom, or poetic convention. Every effort at translation entails some degree of approximation; as the old truism puts it, "every translation is an interpretation." This is especially true when the goal of the translation is to provide a devotional text, a work of art of sorts, and not merely a literal, mechanical reproduction. Nonetheless, we can expect general faithfulness to the Hebrew text. Where the translation diverges, and the divergence cannot be explained by syntactic, stylistic, idiomatic, or any similar consideration, theological discomfort may be responsible. When such divergence occurs in repeated, predictable patterns, we begin to sense the theology of the prayerbook.

Editorial comments include instructions to the reader, introductions to prayers, and explanations of prayers or the accompanying ritual gesture (a bow, for example). Such comments occur infrequently. Like changes in the Hebrew text, their appearance indicates a perceived need. Often, this need will prove to be a simple point of information that the reader must know. Sometimes, however, the comments are surprisingly didactic. In such cases, they express the editor's understanding of the prayers and the values that he deems worthy of special emphasis.

The discussion of the influence of ethics on the liturgy will focus on three major ethical considerations. First, changes in the depiction of God. Second, changes in the treatment of women. Third, the stressing of social justice, love of the neighbor, doing acts of righteousness and, in general, leading a moral life.

The way that God is depicted lies partly in the realm of theology and partly in the realm of ethics. Whether God is portrayed as abstract and remote, or personal and close, need not reflect ethical influence. But whether God is portrayed as loving and peaceful, or unforgiving and belligerent, is ethically crucial. This ethical import derives from the fact that the doctrine of *imitatio dei* stands among the foundations of Jewish theology, and serves as an underpinning of Conservative ethics. The locus classicus of this idea is *Sotah* 14a:

R. Hama son of Hanina further said: What means the text, "Ye shall walk after the Lord your God (Deut. 13:5)?" Is it then, possible, for a human to walk after the Shechinah; for has it not been said, "For the Lord thy God is a devouring fire (Deut. 4:24)?" But [the meaning is] to walk after the attributes of the Holy One, blessed be He. As he clothes the naked, for it is written, "And the Lord God made for Adam and for his wife coats of skin, and clothed them (Gen. 3:21)," so do thou also clothe the naked. The Holy One, blessed be He, visited the sick, for it is written, "And the Lord approached unto him by the oaks of Mamre (Gen. 18:1)," so do thou also visit the sick. The Holy One, blessed be He, comforted mourners . . . so do thou also comfort mourners. The Holy One, blessed be He, buried the dead . . . so do thou also bury the dead.

That this passage is included in *Siddur Sim Shalom*<sup>5</sup> (albeit without the prooftexts), and that a similar passage appears in the *Mahzor for Rosh Hashanah and Yom Kippur*,<sup>6</sup> testifies to the importance of this teaching for Conservative theology. We shall see that God is distanced from traits repugnant to the editors, and given the ethical characteristics which they desire human beings to emulate.

Improvement in the status of women in the synagogue has been a trend in the Conservative movement for many years, and has found expression in the decisions of the Rabbinical Assembly Law Committee which now allow women to perform all liturgical functions, as well as the recent decision of the Jewish Theological Seminary to ordain women. Conservative liturgy reflects this egalitarian ethic by altering or modifying prayers which exclude or offend women, while expanding certain prayers to include women where they previously did not.

Additions to, or modifications of, the liturgy that promote justice, righteousness, and the importance of leading a moral life, are self-evident indications of the influence of ethics on the liturgy.

These three spheres of ethical influence will be traced through the six major prayerbooks published by the Conservative movement. These prayerbooks are as follows:

5. P. 18. Publication information is given below.

6. P. 529. (The source is *Tanna Dvei Eliyahu*, 135.) The passage reappears in a paraphrase on pp. 616-7. See p. 343 for a modernized version of the rabbinic source authored by Abraham Joshua Heschel.

1) *Festival Prayer Book*, Alexander Marx, Chairman, 1927. Henceforth, *Festival*.

2) *Sabbath and Festival Prayer Book*, edited by Morris Silverman (Committee chaired by Robert Gordis), 1946. Henceforth, *Sabbath*.

3) *High Holiday Prayer Book*, compiled and arranged by Morris Silverman, 1951. Henceforth, *High Holiday*.

4) *Weekday Prayer Book*, Gershon Hadas, Chairman, The Prayer Book Committee, 1961. Henceforth, *Weekday*.

5) *Mahzor for Rosh Hashanah and Yom Kippur*, edited by Jules Harlow, 1972. Henceforth, *Mahzor*.

6) *Siddur Sim Shalom*, edited, with translations, by Jules Harlow, 1985. Henceforth, *Sim*.

*Festival* bears the imprimatur of United Synagogue of America; *Weekday* and *Mahzor* that of The Rabbinical Assembly; *Siddur* and *Sabbath* of both. *High Holiday* was not published under the direct auspices of these institutions. However, since it was compiled by Morris Silverman, who edited *Sabbath* (and who acknowledges many of those who sat in the committees that edited the other prayerbooks), and is widely used in many Conservative congregations, *High Holiday* must be counted as a prayerbook of the Conservative movement.

#### 1) *Festival Prayer Book*

*Festival*, the first prayerbook published under Conservative auspices, betrays no influence of ethics. There are no changes in the Hebrew text. The translations are accurate and faithful to the Hebrew. (Below these translations are comments which will serve as a control by which we can measure ethically influenced translations in the other prayerbooks.) Even the "prayer before the ark" (pp. 101-2) lacks any distinctive ethical stress. Since this prayer is the free composition of the editor, it provides a golden opportunity to stress ethics. Yet none appears. In the "Prayer for the Government" (p. 201) the ideals of "true brotherhood," "peace and freedom," and general unity of "all races and creeds" are sought. But this is no surprise. A prayer for a secular state must be limited to hopes for security and the flourishing of moral values. Prayers for a deepening of religious faith or other theocentric concerns would be inappropriate.

#### 2) *Sabbath and Festival Prayer Book*

Three principles that guided the editors of *Sabbath* are mentioned in the foreword: "continuity with tradition," "relevance to the needs and ideals of our generation," and "intellectual integrity." Although the "ideals of our generation" are not defined precisely, they can be identified through the changes incorporated in the prayerbook.

A profound ethical influence can be seen in the portrayal of God. *Sabbath* avoids associating God with destruction, vengeance, death, and other such qualities. Note these examples:

a) <sup>2</sup>*Emet ve<sup>2</sup>emunah* (p. 18). The English translation here is preceded with the subscription “adapted from the Hebrew.” The adaptation eliminates qualities of God that may be perceived as destructive or evil. Thus, the phrases *ha<sup>2</sup>El hanifra<sup>c</sup> lanu mizareinu vehameshalem gemul lekhol <sup>2</sup>oivei nafsheinu* and *hamake be<sup>c</sup>evrato kol bekhorei Mizraim* do not appear in the English. *Festival* had translated these phrases literally as “who on our behalf dealt retribution to our adversaries, and requited all the enemies of our soul,” and “who, in his wrath, smote all the first-born of Egypt” (pp. 6-7). The verse *hama<sup>c</sup>avir banav bein gizrei yam suf, <sup>2</sup>et rodfeihem ve<sup>2</sup>et soneihem bitehomot tiba<sup>c</sup>* becomes “May He continue His protecting care over Israel/ And guard all His children from disaster.” This is a far cry from the literal meaning, which *Festival* rendered “who made his children pass between the divisions of the Red Sea, but sank their pursuers and enemies in the depths” (p. 7). The motivation behind the omissions in *Sabbath* seems clear. To link God with exacting retribution, requiting, wrath, and the murder of Egyptians, apparently produced acute theological discomfort. Consequently, the translation carefully omits the offensive qualities.

b) <sup>2</sup>*Ezrat <sup>2</sup>avoteinu* (pp. 94-5). The superscription here reads “selected from the Hebrew.” Again, what are viewed as harmful qualities of God are deleted. The phrases *kol bekhoreihem haragtah ubekhorkha ga<sup>2</sup>altah* and *vayekhasu mayim zareihem <sup>2</sup>ehad meihem lo<sup>2</sup> notar* are not translated. *Festival* offered “all their firstborn thou didst slay, but thy firstborn thou didst redeem” and “while the waters covered their adversaries, not one of whom was left” (p. 76). The passage *veyam suf baqa<sup>c</sup>ta vezeidim tiba<sup>c</sup>ta viyididim he<sup>c</sup>evartah* becomes “Thou didst reveal Thy saving power at the Red Sea / So that the children of Israel passed through in safety.” The first clause removes the warlike elements of the Hebrew, which notes that God did “divide the Red Sea and drown the proud” (*Festival*, p. 76).

c) A less obvious but nonetheless significant example occurs in the weekday <sup>2</sup>*Amidah*. The Hebrew text of the twelfth blessing, the *Birkat ha-Minim* (blessing for [the destruction] of heretics), has been altered from *vehazeidim meheirah te<sup>c</sup>ager* to *umalkhut zadon meheira te<sup>c</sup>ager*, i.e., from “do thou uproot the arrogant” to “do thou uproot the dominion of arrogance.” This change softens the harshness of the prayer. God is not asked to destroy arrogant human beings but rather, euphemistically, the abstract, impersonal “dominion of arrogance.”

The common denominator in these examples is the attempt to downplay militant, evil or destructive attributes of God. God must be a God of peace, love and justice since these values lie at the cornerstone



of the ethical vision behind the prayerbook. This ethic, then, has exerted a powerful influence on the English translations and Hebrew text.

The desire to improve the status of women motivates one emendation. The morning blessing is changed in both Hebrew and English from "Blessed art Thou, O Lord our God . . . who has not made me a woman (*shelo*<sup>7</sup> *ʿasani ʾishah*)" to "who has made me in His image (*sh-ʿasani beʾzalmu*)."<sup>7</sup> This change rejects any implication of the inferiority of women. The seeds of an egalitarian ethic have been planted.

*Sabbath* does not promote peace, justice, love, and other moral desiderata in an overt manner. A meditation is added both to the Sabbath *musaf*<sup>ʿamidah</sup> and to the festival *musaf*<sup>ʿamidah</sup> in order to create a prayer considered more currently meaningful than one which centers on sacrifices (pp. 140, 150). "Freedom" and "justice" are mentioned, but do not comprise the central thrust of the meditations. Similarly, in the prayers composed for recitation before the ark (pp. 119-120), "just and righteous living" receives but a cursory mention. Of the supplementary readings provided at the end of the prayerbook (pp. 269-355), the section entitled "Our Way of Life" contains readings which stress social justice, ethical living, world peace, etc. But other sections supply readings about "God," "Torah," "Israel (the people)," "Eretz Yisrael," and "America." Ethics, therefore, exert no more influence than do other Jewish values.

In the last blessing of the morning *ʿamidah*, however, a slight ethical influence appears. The word *baʿolam* is added to the Hebrew text (p. 155).<sup>8</sup> The blessing thus reads "Grant peace, well-being and blessing unto the world, with grace, lovingkindness and mercy for us and for all Israel." Without the addition, the blessing is restricted to Israel; with the addition, it becomes a prayer for universal peace. *Sabbath* has thus expanded the traditional ethic of peace.

### 3) *High Holiday Prayer Book*

*High Holiday* continues *Sabbath*'s policy of disassociating God from belligerent and destructive qualities. For *ʾEmet veʾemunah* (p. 9), *High Holiday* essentially reproduces the adaptation from the Hebrew offered by *Sabbath*. However, *High Holiday* deletes the verses "He causes us to triumph over our enemies/ And raises up our glory over our foes/ Wondrously He visited judgment upon Pharaoh/ Performing signs and wonders in the land of Egypt" which appeared in *Sabbath*.<sup>9</sup> Not only are

7. This change is acknowledged by the editor, p. x.

8. See p. xi. The reading is based on Saadia Gaon. That this reading has a precedent in tradition does not counter our claim that this is an example of ethical influence. Precisely that ethical influence induced the committee to resurrect Saadia's reading and substitute it for the accepted version.

9. There are two other differences. The language is slightly modernized: "hath" becomes "has" and "redeemeth" becomes "redeems." Also, a transliteration is provided for two lines.

the lines describing how God killed the firstborn and exacted retribution deemed problematic, but any association of God with triumph or judgment is deemed ethically unsettling. In 'Ezrat 'avoteinu (p. 72), *High Holiday* gives the same passages "Selected from the Hebrew" as in *Sabbath*, albeit in a different order. Thus, the lines that are deemed offensive are omitted.

*High Holiday* goes beyond the measures taken by *Sabbath* in a number of cases. The lines *la'asot nekamah bagoyim tokhehot bale'umim le'esor malkheihem beziqim venikhbadehem behavlei barzel* in Psalm 149 do not appear in the selections of the translations (p. 55). *Sabbath* translated accurately "To bring judgment upon the wicked nations/ And chastisement upon the peoples/ To bind their kings with chains/ and their nobles with fetters of iron" (p. 80). The selections from Psalm 24 omit the lines 'Adonai 'izuz vegibor Adonai gibor milhamah (p. 123). Similarly, when these lines appear in the *Shofarot* section, the translation skips over them (p. 160). *Sabbath* translated literally "The Lord strong and mighty, The Lord mighty in battle" (p. 135). In the piyyut 'Atah hu 'Eloheinu, the line *ne'epad nekamah* is translated "He is girt with justice (p. 276). This is a possible translation, although *nekamah* corresponds better to "vengeance." In the *la'el barukh* paragraph (p. 69), *High Holiday* translates the Hebrew *ba'al milhamot* to "combats evil." *Sabbath* translates it "triumphant in battle" (p. 91), while *Festival* gives the more literal "Lord of battles" (p. 73). *High Holiday's* translation is so far from the literal sense that it must be understood as reflecting a powerful ethical, perhaps even pacifist, influence, as do many of the similar translations mentioned earlier. Thus, a development can be detected, with a stronger emphasis in *High Holiday* than in *Sabbath*, in disassociating God from destructive and punitive traits.<sup>10</sup>

The desire to improve the status of women, however, is less influential in *High Holiday*. The morning blessings revert to the original *shelo' 'asani 'ishah* (who has not made me a woman) in the Hebrew text (p. 29), thus abandoning the positive formulation of *Sabbath*, "who has made me in His image." But the translation reads "who hast set upon me the obligations of a man." This rendering of the Hebrew ameliorates the perceived attitude toward women, but does not go as far as *Sabbath* to provide an egalitarian formula.

In *High Holiday*, a clear attempt is made to emphasize the importance of ethical acts. This goal motivates several additions to the traditional liturgy. The passages which punctuate the sounding of the Shofar explain that the Shofar is "urging us to work with our brothers/ To combat the ills that beset man/ Accept ye the challenge to triumph/ O'er forces of wrath and destruction./ Remove from your midst crime and warfare,/ All poverty, greed, and contention" (pp. 119-120). The

10. *High Holiday* reverts to *hazeidim* where *Sabbath* had substituted *malkhut zadon*.

Shofar has been interpreted, at least in part, as a moral symbol, one that should motivate us to achieve ethical perfection. A similar interpretation appears in the introductory reading before the *Shofarot* section (pp. 167-8). This reading juxtaposes the Biblical verses of the *Shofarot* liturgy with comments which explain what must be accomplished before God will reveal himself anew. These comments are overwhelmingly ethical.

As we sanctify life by courageously upholding honor and righteousness, God reveals Himself anew . . . Through our leaders and teachers who carry on the prophetic traditions of justice and mercy . . . Through our efforts to restore the birthright of freedom to all those bruised and beaten in their struggle for bread and shelter . . .

The values stressed include "moral responsibility," "peace," "justice," "harmony, understanding and mutual helpfulness," and the abolition of "man's inhumanity to man," "violence and war," "chaos, strife and greed." Revelation, then, is primarily contingent on man's moral state. The responsive reading before *Kol Nidre* repeatedly insists that ritual acts including fasting are useless unless one reforms his conduct toward his fellow men (pp. 211-2). Charity to the poor, mercy for a brother, freedom for the oppressed, feeding the hungry, and clothing the naked, emerge as the true acts of piety and the goals for the day.

The most profound ethical influence is found in the *Avodah* service (pp. 368-376). Billed as a "modern interpretation of the *Avodah*," the English alternates translations of the Hebrew text with passages explaining what the description of the High Priest's actions should mean to us. For example:

Even as the High Priest prayed for the members of the Priestly tribe, the leaders of Israel, so do we pray for the leaders of our day. . . . Give us men of faith, daring and vision who will bring about a society wherein none shall be master and none shall be slave, wherein all shall share the blessings of life, liberty and happiness.

Other passages stress ethics in a similar fashion. The upshot is a startling rereading of the traditional liturgy. A description of how the High Priest atoned for sin through sacrifices and the ritual of the scapegoat has been transformed into prayers for an ethical society and exhortations to lead a moral life. A note explains that the purpose of reciting the *Avodah* is to "be moved to a deeper religious spirit" (p. 368). It is clear that, for *High Holiday*, "religious spirit" is primarily expressed through leading an ethical life. Indeed, a separate "symbolical interpretation of the *Avodah*" is printed after the *Avodah* proper (pp. 377-8). This interpretation exceeds the first "modern interpretation" in exhorting the reader to lead a moral life. It covers the full gamut of ethical ideals of the most ardent social action enthusiast. The additions to the Shofar service, *Shofarot* liturgy, and the interpretations of the *Avodah*, demonstrate that ethics is the highest ideal of *High Holiday*.

4) *Weekday Prayerbook*

*Weekday* alters the techniques employed to cope with the destructive qualities of God, but retains the desire to distance God from such traits. The tendency of *Sabbath* and *High Holiday* to omit troubling lines from English translations is rejected. All lines appear in *Weekday*, although some have slight, yet significant, modifications. In the *’Emet ve’emunah* (pp. 144-5), *Weekday* is willing to print “He brings judgment upon our oppressors/ And retribution upon our mortal enemies,” and even “In wrath he smote all of Egypt’s first born,” which *Sabbath* and *High Holiday* omitted. However, the Hebrew *’et rodfeihem ve’et soneihem betehomot tiba<sup>c</sup>* becomes “As their pursuers sank in the sea.” The verb *tiba<sup>c</sup>* is in the active, hence the translation should run: “He (God) sank their pursuers in the sea.” Thus, *Festival* translated the Hebrew to “who . . . sank their pursuers and enemies in the depths.” But *Weekday* shrinks from the thought that God actively drowned the Egyptians. The passive verb absolves God from direct responsibility for their death.

Passive verbs are used in a similar manner for the troubling passages of *’Ezrat ’avoteinu* (p. 51). The Hebrew places the verbs in the active: *kol bekhoreihem haragtah ubekhorkha ga’allah veyam suf baka<sup>c</sup>tah ve-zeidim tiba<sup>c</sup>ta vididim he’evartah* is literally “You slew all the firstborn of the Egyptians and saved your firstborn. You split apart the waters of the Red Sea. You drowned the wicked; the faithful you rescued.” The translation shifts the verbs into the passive: “The firstborn of the Egyptians were slain, The firstborn of Your children were saved. You split apart the waters of the Red Sea, The faithful You rescued; The wicked drowned.” Only the verb “rescued” is in the active, since this is clearly a desirable quality. But that God would “slay the Egyptians” or “drown the wicked” is deemed liturgically unacceptable.

In several cases, however, *Weekday* exceeds the previous prayerbooks in efforts to this end. In *Le’El barukh*, the phrase *ba’al milhamot*, literally “Master of wars,” is translated “champion of justice” (p. 45). *High Holiday*’s translation, “combats evil,” while removing God from the “battles” mentioned in the Hebrew, at least suggests that God fights. “Champion of justice” removes God yet another step away from war. The opening passage of the *’Al hanisim* blessing is treated in a similar way (p. 64). The Hebrew *’al hamilhamot*, “for the wars,” seems to be translated by “the triumphs.”<sup>11</sup> *Sabbath* translates more accurately: “thy victories in battles” (p. 24). The absence of the possessive pronoun “thy” in *Weekday* is also significant. The Hebrew attributes the battles to God; they are what God has done (*’asitah*) for our ancestors. *Weekday* thanks God for the “triumphs . . . of our ancestors.” The genitive indicates that they are our ancestors’ triumphs, not God’s. The reason is clear: God must not be associated with battle, war, destruction and the like.

11. Unless “triumphs” refers to the *gevurot*, in which case *milhamot* is untranslated.

Finally, in the *ʔAvinu Malkeinu*, the line *nekom nikmat dam ʕavadekha hashafukh*, literally, “avenge the innocent blood of your servants,” is translated “remember the innocent blood of Your servants” (p. 69). The verb *nekom* means to requite or to revenge, certainly not to remember. But these qualities are too harsh for God.

With respect to women, *Weekday* resurrects *Sabbath*’s innovation, which *High Holiday* abandoned, of positive formulations for the morning blessing: “who has made me in His image,” rather than “who has not made me a woman” (p. 10). An additional innovation in *Weekday* also improves the image of women. In the blessing after the Torah reading, the Hebrew reads *hem unesheiheem weneiheim wnoteiheim* (p. 87). An accurate translation would be: “(May it be the will of our Father in heaven to sustain us among the sages of Israel. May he safeguard) them and their wives and their sons and daughters.” *Weekday* translates “them and their families.” Of course wives, sons and daughters add up to a family, so the essential meaning of the passage is preserved. Yet, this subtle substitution avoids a problematic implication of the Hebrew. By distinguishing them (the sages) from their wives, the Hebrew implies that only men are sages. Such a message is unacceptable to an ethic which recognizes the right of women to function as leaders, both in the secular and religious spheres. The English leaves open the possibility that sages may be women.

There are no overt additional prayers, introductions, modifications or suggestions to the reader which promote ethics.

### 5) *Mahzor for Rosh Hashanah and Yom Kippur*

With respect to the image of God, *Mahzor* follows *Weekday*’s policy in most cases. While all lines of the Hebrew are paralleled in English, the translation plays down God’s connection to anything violent. In *ʔEmet veʔemunah* (pp. 24-5) and *ʕEzrat ʔavoteinu* (p. 120-121), the active to passive substitution is used to absolve God of direct responsibility for the loss of life. And, as in *Weekday*, the phrase *baʕal milhamot*, “Master of wars,” is translated “champion of justice” (pp. 114-5). In the *Malkhuyot* verses, the passage *ʔAdonai ʕizuz vegibor ʔAdonai gibor milhamah* is omitted from the translation.<sup>12</sup> Yet, the verse is translated where it appears following the Torah reading as “The lord with dignity and power, the lord, triumphant in battle” (p. 260). Apparently, more liberty could be taken with *Malkhuyot* verses.

An interesting example of editing appears in the *ʔavinu malkeinu Mahzor* omits about ten lines of the traditional version from both the Hebrew and English (pp. 152-3; compare *Weekday*, pp. 131-133). Most

12. Here the translation is incomplete by design. The English divides the Hebrew into two sections of half the length, one for each day, and omits several verses. It is not coincidental that this verse is chosen to be omitted.

of the omitted lines impute harsh qualities to God. Thus: "Ignore the record of our transgressions" (which implies that God is a meticulous judge who keeps a record of our transgressions); "repeal evil decrees against us" (which implies that God occasionally makes evil decrees against us); "withhold the plague from your heritage" (which suggests that when plagues do strike, it is because God has chosen not to withhold them); "requite the innocent blood of Your servants" and "silence our malevolent accusers" (which are considered to portray God in a destructive and harsh manner, albeit toward our enemies). The omission of lines that do not reflect in such ways on God can also be explained on ethical grounds. The plea, "bless our storehouses with plenty," is omitted, as it begs God for wealth. Associated with greed instead of with its potential as an incentive to creative effort, it is deemed of questionable moral value.

*Mahzor* continues the policy of positive formulations for the morning blessings. *Mahzor* also applies *Weekday's* innovation of eliminating the distinction between sages and women. In the *Mi sheberakh* which follows the *Yekum purkan* (p. 194), the Hebrew reads *kol hakahal hakadosh hazeh im kol kehilot hakodesh, hem unesheihem uveneihem uvnoteihem*, which means "all this entire congregation with all holy congregations: them, their wives, their sons and daughters." The translation reads "them, their sons, their daughters, their families." Clearly, the intent is to avoid a distinction between "them" (the men = holy congregation) and "their wives" which would read women out of the congregation. The desire to include women results in an addition to the Hebrew text of the meditation before *Kol Nidre* (p. 348). The Hebrew provides a reading for a man, *velismoah im eshet heiqi* ("to rejoice with my beloved wife") and gives the parallel phrase which women should say in parentheses: (*ba'ali*, "my husband"). Printing both forms reflects the consciousness that women are likely to be saying the prayers along with men. Women now belong in the synagogue, not in the home. They are members of the congregation, not just wives of members.

*Mahzor* presents a powerful array of additions and modifications which promote moral values, and demonstrate unmistakable ethical influence on the liturgy. This stress can be seen from the very beginning of the preliminary morning service (p. 58). There, the liturgy is supplemented by Psalm 15, which decries slander, evil to fellow men, mistreatment of one's neighbor, usury, and bribery, and insists that one keep his promises, honor the pious, speak the truth, and do right. A veritable cornucopia of ethics! So important is this Psalm, that it is also selected as the introductory reading for the second day of Rosh Hashanah (p. 13). Following Psalm 15 in the morning service is the line, "I hereby accept the obligation of fulfilling my Creator's commandment in the Torah: Love your neighbor as yourself." This line is borrowed from the siddur of Rabbi Isaac Luria, the sixteenth century Kabbalist.

Thus, from the very outset, *Mahzor* emphasizes general ethics and universal love.

Peace is a central value of *Mahzor's* ethical vision. Recall that *Sabbath* universalized the prayer for peace found in the final blessing of the morning *Amidah* by adding the word *ba'olam*, "in the world." *Mahzor* now universalizes the blessing of the afternoon and evening *Amidot* by adding the words *ve'al kol yoshvei tevel*, "[Grant true and lasting peace to Your people Israel] and to all who dwell on earth" (pp. 36-7). Two passionate prayers for peace are incorporated into the Torah service (pp. 162-3, 198-9). The first, a meditation before the scrolls are removed from the ark, beseeches *Adon hashalom*, "the God of peace," for peace between man and his neighbor, man and wife, the entire family, and the entire world.<sup>13</sup> The second prayer, which precedes the Shofar service, entreats for peace on an international level. Thus, the Torah service is sandwiched between prayers for peace. The impact is a brilliant transformation of the symbolism of the Torah service, for the liturgy surrounding the Torah service has overtones of war. As the ark is opened, the congregation recites the verse: "Whenever the Ark was carried forward, Moses would say: May your enemies be scattered, Lord, may your foes be put to flight" (Numbers 10:35). After the Torah has been returned to the ark, Numbers 10:36 is recited: "Return, O Lord, unto the ten thousands of the families of Israel." This verse was said by Moses as the ark of the covenant came to rest, presumably after God had scattered His enemies and caused His foes to flee. Thus, the Torah symbolizes the ark of the covenant; its removal and return represent the motion and halting of the ark, which, in Biblical thought, symbolize God and His people going to battle. *Mahzor*, while retaining the traditional liturgy and its symbolism, brackets the entire service with prayers for peace, thus transforming or balancing its symbolism.

*Mahzor* presents a sustained and comprehensive emphasis on deeds of righteousness. In addition to the traditional Torah reading for the afternoon service on Yom Kippur (p. 628) from Leviticus 18, which warns against adulterous, incestuous and prohibited types of sexual intercourse, an alternate reading, from the next chapter of Leviticus, is provided — the famous "holiness code," considered by many to be the acme of Biblical ethics. An introduction which precedes the afternoon service before Yom Kippur exhorts the congregation to give charity to the poor and to treat them with kindness (p. 332). The reader is told that "giving charity . . . is a very important way of making peace between the people Israel and their Father in heaven." Thus, deeds "between man and man" have become a means of atonement and of reconciliation with God. Ethics, in other words, is emphasized as the

13. The translation on p. 162 is rather loose and does not accurately reproduce the Hebrew.



key expression of piety. This message also can be found in an introduction to the *‘Aleinu*, which is adapted from the words of Martin Buber (p. 421) and explains that the purpose of humanity is the “great up-building of unity and peace. And when all nations are bound together in one association living in justice and righteousness, they atone for each other.”

The *Avodah* service, as in *High Holiday*, undergoes an ethical re-interpretation. The introduction gives an overview of history from creation to the establishment of the priesthood with Aaron and his sons (p. 598). There follows the Biblical verse concerning Yom Kippur, mention of the covenant with God on Mt. Sinai, and passages about Moses performing sacrifices in order to atone (p. 599). What follows is a sustained polemic against sacrifices in favor of ethics:

- . But if the people break the covenant, sacrifices cannot heal the breach . . . I need no bullock from your farms, no goat from your herds. . . . Do I eat the flesh of bullocks . . . God’s sacrifice is a humble spirit; a contrite heart he will not despise . . . if you have no love for others, of what use are your sacrifices. . . . Is that what you call fasting, a fast that the Lord would accept? This is my chosen fast: let the oppressed go free, break every yoke (pp. 599-600).

This introduction closes with a passage to the effect that in the *Avodah* service we recall how our ancestors sought to demonstrate their purity through sacrifices brought “in gratitude and self-surrender.” Thus, the introduction closes on a positive note. Yet, the message of *Mahzor* is abundantly clear. God does not want sacrifices. Perhaps God does not even want fasting! God wants ethical behavior and deeds of lovingkindness. This message is reemphasized at the end of the *Avodah*. “Atonement for sin in a world without the Temple” reads the caption (pp. 614-5). There follows the famous story of Rabbi Yoḥanan ben Zakkai, who, when he saw Rabbi Joshua weeping over the destruction of the Temple, said, “Be not grieved, my son. There is another way of gaining atonement, even though the Temple is destroyed. We must now gain atonement for our sins through deeds of loving-kindness.” Then the principle of *imitatio dei* is quoted, followed by a plethora of ethical injunctions. In the same way as the Torah service was bracketed by prayers for peace, the *Avodah* service has been bracketed by exhortations to ethical practice.<sup>14</sup> *Avodah*, the essence of worship, has thus been re-interpreted as ethics.

14. It is interesting to note that the Artscroll Mahzor prefaces the *avodah* by these words: “In the absence of the Temple, the sacred service is replaced by the recitation and study of its laws, a principle mentioned many times in the piyyutim of Yom kippur” (p. 586). In Artscroll, speaking of the sacrifices replaces the Temple service. In *Mahzor*, ethics replace the Temple service.

6) *Siddur Sim Shalom*<sup>15</sup>

To dissociate God from what are deemed baleful forces, *Sim* follows the techniques of *Weekday* and *Mahzor*. The translation of *‘Al hanisim* (p. 117) follows that of *Weekday*, as do translations of *ba’al milhamot* (p. 100, “Master of wars”; *Sim*: “championing justice”; *Weekday*, “champion of justice”), and the troublesome passages of *‘Emet ve’emunah* and *‘Ezrat ‘avoteinu* (pp. 205, 105). The revengeful *nekom nikmat dam ‘ava-dekha hashafukh*, “avenge the innocent blood of your servants,” is completely omitted by *Sim*. The reader is advised that the prayer *‘Av harahamim* is recited in some congregations only three times each year (pp. 420-1). This prayer exhorts God to revenge the innocent blood of Jewish martyrs. Thus, a new technique is employed by *Sim*: the suggestion to reserve theologically unsettling prayers for recitation on special occasions.

*Sim* also innovates a wide gamut of liturgical forms to enhance the status of women. The innovations of the previous Conservative prayer-books have been adopted and pushed to their logical conclusions. *Sim*’s first blessing suggests its egalitarian ideas by providing Hebrew forms in both the masculine and feminine: “*Modeh* (female: *Modah*) *‘ani* . . . (p. 2).” Of course, the morning blessing reads “who made me in his image (pp. 10-11).” *Sim* emends the Hebrew of prayers which seem to exclude women from the congregation, where *Weekday* only modified the translations. Thus, the *Yehi rason* of the Torah service now reads *heim umishpehoteihem*, “them (the learned) and their families.” Recall that *Weekday* printed *heim unesheihem* in the Hebrew but translated “them and their families.” An example of liturgical development is evident: *Weekday* modifies the English; *Sim* then brings the Hebrew into line. *Sim* makes a comparable change in the Hebrew of the *Mi shebeirakh* prayer for the congregation on *Sabbath* in order to eliminate the distinction between members of the congregation and their wives (pp. 414-5).

The idea that women are now full-fledged members of the congregation does not only emerge from these minor emendations, but is articulated through numerous liturgical innovations. The forms of various blessing and honors now appear in both masculine and feminine conjugations. *Mi shebeirakh* prayers proffer forms for a male and female called to the Torah, and for a bar- and bat-mitzvah (pp. 14-5, 402-9). The poetic expansions of the coveted honors for the *‘aliyot* concluding and beginning the Torah on *Simhat Torah*, the *Hatan ha-Torah* and *Hatan Bereishit*, have been recast into the feminine to provide for a *Kalat ha-Torah* and *Kalat Bereishit* (pp. 554-557). The most significant theological statement surfaces in the meditations prior to donning the

15. See Jeffrey Rubenstein, “Siddur Sim Shalom and Developing Conservative Theology,” *Conservative Judaism* 39 (1988): 21-37.

*talit* and *tefilin*. Here, too, masculine and feminine forms are provided (pp. 2-4). *Sim* expresses more than the belief that it is permissible, perhaps even expected, that women wear a *talit* and *tefilin*. The message is that God has given these *mizvot* to women, too. This is a radical theological statement, in that it rejects the traditional principle which exempts women from positive, time-bound commandments. The traditional distinction between male and female dress (*begeh* <sup>ish</sup> and *begeh* <sup>ishah</sup>) also begins to collapse as women are entitled to wear what had been considered exclusively male garb. For *Sim*, women are full members of the congregation, they are entitled to all synagogue honors, and they perform the same rituals as men. The ethic is clearly egalitarian.<sup>16</sup>

Confirmation of the egalitarian ethic is manifest in the tendency to appeal to female models. While the traditional liturgy appeals to male figures to a far greater extent than to female heroines, *Sim* often attempts to achieve a sort of parity. The first blessing of the *Amidah*, which invokes the "God of Abraham, of Isaac, of Jacob," becomes "Abraham and Sarah, Rebecca and Isaac, Jacob, Rachel and Leah stood in awe before You" in the "alternative" *Amidah* (pp. 232, 328, 331). Traditionally, the *Mi shebeirakh* prayers mention Abraham, Isaac, Jacob, Moses, Aaron, David, and Solomon. *Sim* replaces the last four with the four matriarchs (pp. 402-9). In other places, balance is achieved not through the incorporation of corresponding female heroines but by elimination of the male models. In the *Uva le'Ziyon*, where the Hebrew cites Abraham, Isaac and Jacob, the translation supplies the non-gendered "ancestors" (pp. 156-7). *Avoteinu* is regularly translated by "ancestors" where previous prayerbooks employed "forefathers."

Taken together, these changes add up to a type of historiography. Seen through the eyes of *Sim*, history appears in a new light. The founders of our faith, the spiritual giants who rejected their polytheistic heritage and discovered the One God, the God of the Jewish people, were both our forefathers Abraham, Isaac, and Jacob and their wives, the matriarchs, Sarah, Rebecca, Leah, and Rachel. Producing the progeny that was to become the Jewish nation no longer comprises the exclusive historical significance of the matriarchs. They now take their place along with their husbands as models of tenacious faith and spiritual prowess. This historiography communicates clear values to the worshipper. Women in the past have played central roles in the development of Judaism and the religious life of the people. Women today have a similar ability to occupy such roles.

*Sim* adopts several innovations pioneered by *Mahzor* to emphasize the value of deeds of lovingkindness. The same prayers for peace brack-

16. The *kavanah* before counting the *omer* does not provide the feminine form (p. 237). Is this an oversight? Note that the passages summoning the *kohen* to the first *aliyah* (pp. 140-1, 400-1) do not provide female forms. Is this because a *kohen* cannot be a woman?

et the Torah service (pp. 396-7, 416-7). The afternoon and evening *amidot* conclude with the universalized prayer for peace. The morning service appropriates the admission that one accepts the obligation to love one's neighbor as oneself (pp. 10-11). *Sim* also displays liturgical creativity of its own. In addition to the passage from the Torah traditionally recited at the beginning of the morning service, the priestly blessing of Numbers 6, *Sim* provides verses culled from Leviticus 19 as an alternative. These verses stress justice, charity and holiness, and contain once again the precept to "love your neighbor as yourself."

*Sim's* clearest display of ethical emphasis occurs in the selection of Talmudic passages which conclude the preliminary service. In the traditional liturgy, passages detailing the laws of sacrifices are recited in accord with the principle that studying the laws of sacrifices brings atonement in a world where sacrifices themselves cannot be offered. Following these passages, the *braita d'rabbi Ishmael* which introduces the *Sifra*, the midrash most focused on sacrifices, is said. *Weekday* disposed of the sacrificial passages but retained the *braita d'rabbi Ishmael*. *Sim* deletes even this (pp. 14-19), and in its place provides a number of passages stressing deeds of lovingkindness, ethics and love. The first passage is the famous interchange of Rabbi Yohanan ben Zakkai and Rabbi Joshua quoted above, which articulates the principle that deeds of lovingkindness now replace sacrifices and atone for sin.<sup>17</sup> The next two passages are beautiful exhortations to perform deeds of lovingkindness, charity and justice. The third and fourth passages are classic formulations of *imitatio dei* and the obligation for humans to imitate God's moral excellence. These passages represent the clearest expression of *Sim's* theology. Having disposed of the traditional Talmudic material, *Sim* had free reign to choose the most important passages from all of rabbinic literature for recitation in the morning service. That the selection emphasizes deeds of lovingkindness, ethical behavior and, in particular, *imitatio dei*, reveals the centrality of these ideals for the prayerbook.

Peace plays an important role in *Sim*, as the full title, *Sim Shalom*, itself implies. The preliminary service concludes with a prayer that we "be disciples of Aaron the priest, loving peace and pursuing peace, loving our fellow creatures and drawing them near to Torah" (pp. 18-19). The blessing, "may the Merciful cause peace to dwell among us," is added to the *Birkat Hamazon* (p. 767). *Sim* also stresses peace by replacing several of the passages comprising the traditional *Tahanun* service. *Sim* was apparently uncomfortable with the traditional stress on the worthlessness, inherent sinfulness and unworthiness of man ("excessive self-abasement" is how the introduction puts it [p. xxv]). The replacement

17. See the introduction to the prayerbook, p. xxv, where the editor invokes this principle as his reason for including the Yohanan ben Zakkai passage rather than laws of sacrifices.

passages beseech God for a variety of things: mercy; freedom from unhappiness, trouble, and torment; faith, Torah and *mizvot*; humility, modesty, and a generous spirit; and, especially, peace, both freedom from the “powers of wickedness” and inner serenity: “Bring us from peace to peace that we may find tranquility in our way of life” (pp. 128-133).

\* \* \*

It is now possible to review these findings and address the question of liturgical development. With the exception of *Festival*, all of the prayerbooks published by the Conservative movement display clear signs of the influence of ethics on the liturgy. In *Sabbath* and *High Holiday*, a major focus of concern were the prayers that associate God with punishment, destruction and killing, even where it is the oppressors of Israel whom God destroys. Such passages produce theological anguish because they clash with the editors’ conceptions of an ethical God who exemplifies peace and forgiveness. Moreover, the prominence of *imitatio dei* as a guiding principle of Jewish ethics demands that God be separated from forces of destruction, lest such images serve as models for human action. The technique adopted by *Sabbath* and *High Holiday* was to preserve the Hebrew passages intact, but totally to eliminate the offensive images from the English translations. *Weekday*, *Mahzor* and *Sim* accept the ethic of *Sabbath* and *High Holiday* but reject the radical method of dealing with problematic ideas. These prayerbooks supply more honest translations by providing a corresponding English line to every Hebrew one. To cope with the theological discomfort, an alternative method is employed. Verbs are switched from the active to the passive so that it is not God who slays, but the Egyptians who are slain. A related method is used by *Weekday*, *Mahzor* and *Sim* for other problematic passages — passages that neither *Sabbath* nor *High Holiday* revised — such as the epithet of God as *ba’al milhamot* (Lord of battles) and the praise extended to God in the *‘Al hanisim* for the wars that he fought on behalf of our ancestors. Translations of these passages tone down the force of the Hebrew with reinterpretations like “champion of justice” for *ba’al milhamot*, “Master of wars.” Thus, as new prayerbooks were published, more passages associating God with destruction were found to be problematic, and new methods were invoked to handle the problem.

Parallel to these attempts to depict a pacifist God, are efforts to emphasize the importance of peace. This emphasis grew prodigiously over the course of time. *Sabbath* universalized the prayer for peace in the final blessing of the morning *‘Amidah*; *Mahzor* followed suit with the afternoon and evening *‘Amidot*. *Mahzor* also added prayers for peace to the beginning and end of the Torah service, which, as noted, resulted in a complete reinterpretation of that liturgical unit. These prayers are carried over in *Sim*, which, in turn, added entreaties for peace to the

preliminary service and the *birkat hamazon*. In this way, peace pervades the liturgy and becomes a value of overriding import.

Development is also evident in the treatment of women. *Sabbath* made the first step by eliminating the blessing for not being created a woman. The blessing reappeared in *High Holiday* in the Hebrew, while the English retained an egalitarian sentiment. Subsequent prayerbooks reject the blessing. Beginning with *Weekday*, efforts were made to erase the distinction between the "congregation" and "their wives" expressed in certain prayers. *Weekday* and *Mahzor* emend the translations; *Sim* then emends the Hebrew. The next stage of development was to provide Hebrew forms for both men and women. This new technique is employed by *Mahzor* in one meditation.<sup>18</sup> *Sim* seizes this method and applies it in numerous cases, including the meditations before donning a *talit* and *tefilin*. In addition, *Sim* rewrites several passages to equalize Israel's spiritual heritage. Women become models of piety and sources of inspiration. The ethic has progressed in several stages. First, the expression of the inferiority of women is rejected. Second, women are recognized as full members of the congregation. Finally, women are seen as equal to men, expected to receive synagogue honors and perform all the rituals that accompany the prayers.

Emphasis on interpersonal morality receives prominent expression in *High Holiday*, *Mahzor* and *Sim*. Prayers that mention sacrifices are consistently reinterpreted in terms of deeds of lovingkindness. The elaborate depiction of the sacrificial ritual in the *Avodah* service becomes a type of symbolic code, the true interpretation of which centers around ethical action. The *Avodah* passages are permeated with exhortations to moral action as the true meaning of worship today. *Sim* completes the shift from sacrifices to ethics with the substitution of passages stressing ethics for those detailing sacrifices in the preliminary morning service.

The influence of ethics pervades these prayerbooks, and is not limited to prayers which had invoked sacrifices. *High Holiday* adds meditations instructing the reader that the Shofar should inspire him to moral action and love of his fellow men. The introduction to the *Shofarot* service suggests that revelation is contingent on moral responsibility. This influence is sustained in *Mahzor*. Introductions to the afternoon service and the *'aleinu* impress the reader with the importance of ethical behavior. New techniques employed by *Mahzor* to express its concern for ethics testify to the growing liturgical importance of morality. Whereas *High Holiday* was content with introductions in English or additions to the translations as vehicles for promoting its ethical vision, *Mahzor* begins to supplement the Hebrew prayers and to provide alternatives. Prayers for peace are incorporated into the Torah service,

18. See above, in the text following footnote 12.

Psalm 15 and the obligation to love one's neighbor break into the morning service, and an alternative Torah reading surfaces for the afternoon service on Yom Kippur. *Sim* continues the development of accepting Maḥzor's innovations and employing new methods to infuse ethical emphasis. Now certain passages are deleted from the Hebrew, including certain *taḥanun* paragraphs and the sacrificial passages, which are replaced by those that stress morality. Thus, the influence of ethics has become more pronounced over the course of time. Not only have ethical values gradually permeated the entire liturgy, but the methods used to infuse ethical content have developed as well. *High Holiday* employs introductions and meditations, *Maḥzor* adds to the Hebrew and provides alternatives, *Sim* replaces troubling passages.

It should be noted that Conservative liturgy shows evidence of theological change in areas other than ethics. Sacrifices are being deemphasized, the doctrine of election is toned down or relativized, the understanding of miṣvot as commandments is questioned, and pluralism is given concrete expression by the appearance of alternative forms for many prayers. More study is needed to analyze the extent of these theological shifts, but given the profound influence of ethics as demonstrated in this study, it is not unlikely that important changes are rapidly occurring in these aspects of theology as well. It may well be that Conservative Judaism is closer to the pole of "change" than to "tradition."



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# ***“State-ism” and “Monism”: Two Approaches to the Creation of the Jewish State***

***Review-Essay by* JOSEPH P. STERNSTEIN**

*Zion and State: Nation, Class and Their Shaping of Modern Israel.* By MITCHELL COHEN. New York. Basil Blackwell, Inc. 1987. 322 pp., \$24.95.

TWO PERSPECTIVES should predominate as one examines this important work. First, is study of Zionist history, representing the genre of uncovering the relics of an effort — however massive — long completed and antiquated: is it sort of an archaeological exercise, revealing arcane residues long encrusted with the concealing dirt and soot of time? If this is so, then perhaps we need to apply the criteria of the currently popular essay, “End of History”: the drama, the excitement, and the national, adrenalin-pumping saga of a fighting movement are over and done with.

We are now well into the “boring” and “sad” era of governmental politics, dry economic calculations and rather monochromatic societal activities. Zionism is dead — long live the State of Israel.

The second perspective, conversely, must help us determine whether the subject matter at hand can be extrapolated — at least in principle — to the current scene. Is there a lesson to be learned from this inquiry to guide a living, active, influential movement that is, and will be, viable for a long time to come?

Demarcating these two perspectives — what is Zionism, and is Zionism alive and valid today — is, in my judgment, a matter of life and death for large numbers of Jews.

Basically, Professor Cohen postulates the following thesis: Zionism emerged from the chrysalis of mid-nineteenth century nationalism; it evolved into an overarching articulation of a need for a Jewish homeland; it was catapulted forward into international reality by a self-identified sectarian Socialist thrust, which also steadily assumed the reins of the organizational structure; and, finally, it witnessed the deliberate and idealistic self-immolation of that self-same Socialist Zionism for the greater good,

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i.e., so that a politically-recognized and *unifying* Jewish sovereignty could rear upward as a Jewish State.

Professor Cohen steps carefully through the labyrinth of chronological developments of the movement, and guides us past the salient political, cultural, and organizational hallmarks of each era of Zionism. The premise of this book is encapsulated into a concept which represents the key to Zionist developments: reification:

... [W]ith Labor's triumph came a self-transformation which ... was critical in shaping the future of Israeli politics to this day. It represents what I call the reification of Zionism under Labor's dominance ...

Cohen expropriated this term from Lukacz' *History and Class Consciousness*, as

that which occurs when relations between human beings and the products of their activity appear to them as relations among things beyond them ... It is a central contention of this book that in the process of its realization, Zionism reified.

In this regard, he places Labor's Socialist "reification" (the embodiment of ideology in a social and economic infrastructure) in contradistinction to Jabotinsky's Revisionist principle of "monism," that is, the primacy of a state over any economic or social ideology. The state, he submits, is completely intrinsic to its ideology: eviscerate it and Revisionism dies. Not so with Labor, for Socialist Zionism could have existed with choices and options; yet, self-sacrificingly and idealistically, it *chose* a deliberately self-inflicted subjection of its ideological goals to the historical necessity for the building of a State. The human and, indeed, classic personification of this deliberately chosen path was Ben-Gurion, who inserted into the body politic of Zionism, and then of Israel, the intravenous political nutrient of *mamlakhtiyut* (State-ism).

The fallibility of this argument, which Cohen also applies to Labor's loss of power in 1977, is that the path towards *mamlakhtiyut* was not the result of a choice from among a variety of options available, but was, rather, an ineluctable development that was imposed on Labor. The possibility of another "option" would have resulted in a worse status than that which Labor occupies now.

Cohen traces the nexus of "nation" (or, to be more precise, consciousness of "nation"-hood), to "class" (to be exact, the synonymity of collective identification and Socialist interest with the emerging sovereignty of the Jewish collective), to "state" (with the resultant diminution of Socialist-class dominance). It is the account of the evolution of a modern Jewish society, weighted with the indispensable trappings and responsibilities of an independent state, but unencumbered — and this, Cohen correctly notes, is very important — by those countervailing forces which paralyzed the Jewish collective over the centuries of exile, and thus permitting it now to shape itself freely.

Two additional concepts, borrowed from sociological and socio-anthropological universes of discourse, are insightfully adapted by Cohen in describing the configuration of the building of the Jewish state: “segmented pluralism” and “revolutionary constructivism.” The former was

an operative premise . . . in which various segments of the Yishuv, based on ideological and religious cleavages, would construct their own socio-cultural, economic and political “pillars,” that is, extensive networks of institutions, encompassing all aspects of the lives of their adherents.

The latter was

. . . in the future parlance of the left . . . a strategy of public development and initiative. Jewish Palestine would be built by employing “national capital” (funds collected by the Zionist movement) to finance socio-economic institutions capable of organizing and settling significant numbers of immigrant workers.

The discussion of each section — nationalism, class, and state — reveals significant insights. Dr. Cohen traces the nature of the salience in the Jewish collective of three characteristics: culture, land and consciousness of peoplehood. Analogously, the author points to the three cardinal attributes of statehood: land, language and sovereignty. He correctly places the origins of political Zionism in the matrix of nineteenth century European nationalism, exemplified in the philosophies of Mill, Acton, Marx, and Mazzini. It is in this galaxy of formulated and articulated thrusts of political nationalism that we find the first Zionist nationalist, Moses Hess. “The age of individualism was over; that of humanity was dawning, that of the ‘individuals of humanity,’ nations.” It is especially to Mazzini, the oracle of the Italian mission, that Hess is indebted for his own concept of Jewish nationalism, viz., a “light unto other nations.”

It is, however, the ideological striving by social-philosophers whom we must thank for their continuing preoccupation “with whether a nation is defined through a state or a culture.” This, we are able to perceive, was to become a fundamental ideological conflict in the development of the Zionist movement, a conflict that was embodied in the antithetical strains of Herzlian Zionism and Aḥad Ha’am Zionism. To place them in the proper ideological framework, the question is: was the Jewish Yishuv — the paragon of nationalistic aspiration — to be a *staatnation* (Herzl) or *kulturturnation* (Aḥad Ha’am)? Was it to be concerned with the existence of *Jews* or the renaissance of *Judaism* (admittedly, with religion secondary to culture)?

This ideological debate assumed somewhat different connotations when seen in the geographical contexts of Eastern and Western Europe. The backgrounds of a Hess or even of a Herzl were rooted in Western politics, with the dagger of anti-Semitism casting relatively superficial wounds on the Jewish corpus. This was in contradistinction to the real and palpable misery of Eastern Europe, where torrents of Jewish blood were shed in maniacal pogroms. Yet, both currents of Jewish nationalism, en-

larging their impact upon Jewish consciousness, converged in the realization of Jewish identity. In the words of Haim Nissim, a young Russian Jew, changing his *Weltanschauung* under the impact of pogroms, as quoted by the author: before the pogroms

he had looked forward to life as a devoted son of Russia. "I lived and breathed . . . every new (Russian achievement — my words, J.P.S.)." But now he found himself ceaselessly hounded by the cruel, pointed question: "Who are you? Identify yourself — if you can . . ." It was the question now posed to the entire Jewish community of Eastern Europe.

A steadily enlarging ferment of Jewish nationalism boiled and crystallized into an identifiable and recognizable collective identity: the World Zionist Organization.

It took on a multiple nature. On the one hand it sought to be the framework of a national movement. Its Congress functioned — or presumed to function — as a Jewish national assembly in exile presided over by Herzl, its president. On the other hand, its overall structure resembled that of a political party and its representatives and local organizations frequently acted as if they were parties in Jewish communal politics.

This structure soon accepted ideological groupings as well as geographical representation.

The author acutely notes the momentousness of the 1901 Zionist Congress decision to establish factions and parties. For — and this was unusual and, indeed, unprecedented in the history of nation-states — in the Zionist movement, "*the parties themselves and their systems of interaction were fundamental to the nation and state-building processes*" (italics mine). Specifically, in the context of the author's thesis, "the externally shaped Labor parties tended to develop strong organizational infrastructures and . . . concentrated on building their own communal and class base in Palestine." We thus see the beginnings of the "class" ideology and structure which so significantly fructified the soil of Jewish Palestine.

Dr. Cohen's survey of the rise of Labor Zionism represents a masterly overview of its ascendancy to power. The various ideological rivulets — Poale Zion, Hapoel Ha'azair, Ahdut HaAvodah, Histadrut, Mapai, etc. — converged and redivided, coalesced and bifurcated. These ideological and organizational convolutions harbored the basic motif of "revolutionary constructivism," a strategy of the public development of a national socio-economic infrastructure oriented to large scale immigration.

This thematic concept as a key to Labor Zionist influence is traced by the author through the refracted prism of the pantheon of Zionist leaders and ideologues, culminating ultimately in the titanic personality of Ben Gurion. The gradual, yet relentless transformation, from particularistic, sectarian, party-centered Labor Zionist programs to the overarching theme of *mamlakhtiyut*, became nationally malleable in the hands of that determined and tenacious leader.

· It was his towering personality and leadership (with its crystalline vi-

sion of the Zionist struggle's dimensions) which was the lode-star of the Jewish nation-in-the-making's aspirations. After tracing in detail the fluctuations of Labor Zionism's inner struggles, Dr. Cohen's analysis clearly shows the magisterial conceptions of a Ben-Gurion in comparison to his competitors in the Labor Zionist movement. In a simply couched description of B-G's grasp of political responsibility, the author notes with acuity:

Thus Ben Gurion came to argue at one and the same time that the interests of the Labor movement were those of the nation, but that members of the Zionist Executive — including those representing Jewry's universal class — had to recognize that all the parties were organic parts of the Zionist movement, and that while the Yishuv was central to all calculations, the Zionist Executive could not function solely with it in mind, and the Zionist Organization, which represented both the Yishuv and the diaspora, was the final authority of the movement.

With the recognition by B-G of the narrow sectarian role of Labor in the total structure of Jewish nationalism, the doors were opened — it might be more accurate to say: were forced open — for the growth of Jabotinsky's Revisionism. In this connection, the author is to be commended for one of the most honest and objective analyses of the conflict between Ben Gurion's Labor Zionism and Jabotinsky's Revisionism that this reviewer has ever read.

In the description of Revisionism's growth, one can point to the foibles of Jabotinsky's actions without detracting from his monumental leadership and prescience. A fascinating inner contradiction is noted: a key component of Revisionism — "monism," which refused to "dilute" the tunnel vision of a politically-recognized State with any encumbering of diversionary weights, e.g., Socialism — is gradually adopted by Ben Gurion, and subtly serves as a pillar of his *mamlakhtiyut*. This "narrowly conceived" vision, it cannot be denied, which theoretically and in the abstract can be intellectually defended, nevertheless harbored specific shortcomings for Jabotinsky's Revisionism:

As a logical consequence of his "monism," Jabotinsky and his followers focussed on political affairs narrowly conceived . . . What they did not build was their own socio-economic infrastructure . . . [O]f all the Palestine formations, the Revisionist Party and its affiliates were the only ones that . . . possessed no settlements, no economic enterprises, or institutions of their own. This enabled them to preserve the integrity of their Zionist faith and their freedom of action . . . (while) Labor was busy building and strengthening its pillar . . .

This observation correctly assesses the initial victories of Labor vis-à-vis the Revisionists. Yet, the very correctness of this statement of facts — even discounting the inner Revisionist struggle which eventuated in the Revisionists leaving the World Zionist Organization in 1935 — indirectly but inevitably points to the puzzle as to why, in 1977, Herut triumphed in the national elections. There was no upsurge of Revisionist, or Herut, institutions; there was no sudden fleshing out of Revisionist infrastruc-

ture; there was no quick proliferation of Revisionist apparatuses. Why, then, Labor's defeat in 1977? Without assaying a complete answer, this political development reveals again the flaw in the basic thesis of this volume: that Labor again and again willingly yielded its power, first to a political state and later to a political party out of a sense of idealism. It seems to me to be as plausibly arguable that Labor's loss of power in 1977 was no more voluntary than its earlier willingness to establish a state and risk losing the primacy of Socialist ideology. The electorate of Israel in 1977 felt that the political ideology of Labor's socialism was not working, and would not work. Labor did not voluntarily give up power, nor did any inner ideological change of Labor lead to its defeat.

This aside, Cohen's description of Labor-Revisionist relations is excellent, honest and important. His detailed account of Ben Gurion's and Jabotinsky's personal friendship and mutual admiration, their private meetings, their agreements (and disagreements, too) and, finally — and Cohen describes this splendidly — Labor's rejection of the Ben Gurion-Jabotinsky accord (an understanding which could have preserved the integrity of the Zionist movement), is carefully documented.

The reciprocal esteem of the two leaders is traced in detail, and it is important that it be recounted fully. It is puzzling, and at the same time rewarding — in the context of the political vitriol hurled at each other by these major contending factions — to read the documented exchange between the two leaders, breathing the spirit of constructive, yet friendly, criticisms of each other's ideology. In our times, when the appellations "fascists" and "communists" are hurled with such irresponsible abandon in Israel, we can look back admiringly at the richness of the relationship between these two giants of Zionism.

Lest it be felt that the paths of both, *within* their respective movements, were rosy and comfortable, Cohen recounts the inner struggles that each encountered. When Jabotinsky forced his movement to withdraw from the W.Z.O. and founded the New Zionist Organization in 1935, there developed a split, and a small group, headed by Meir Grossman, stayed behind and formed the "Jewish State" party. The split caused Jabotinsky much pain.

Almost analogously, Ben Gurion also suffered in his slow drift towards the implementation of *mamlakhtiyut*, which aimed at the gradual submergence of socialism and party sectarianism and the deliberate elevation of his primary concern to establish a viable Jewish State. He reminded his socialist colleagues that the dispute with the Revisionists about Zionism's *endziel* (end goal) was not over whether there should be a Jewish state, but when it was politically intelligent to declare that goal. This significant note was underscored in connection with the famous Biltmore Conference in 1942, when Zionists officially demanded the establishment of a Jewish commonwealth. His struggle was difficult, and did not end until his dying day. Similarly, even the pragmatic Peres, the disciple *par-*



*excellence* of B-G, declared well after the establishment of the Jewish state: "In a desert, the guiding principle is not that of justly dividing the 'pie,' but of growing the grain needed to bake bread." This was, of course, very similar to the arguments of Jabotinsky's *monism*.

Concluding this historical analysis is the account of the evolution from Labor, or socialist, ideology as praxis of statism, to the overriding concern and the exclusive goal of Ben Gurion for the strengthening of the State *qua* state. This praxis led, inevitably, to the defeat of 1977 at the hands of Begin and the end of Labor's uninterrupted dominance of Israel's society.

Several questions must be considered: If we accept one of the basic premises of the author's argument — and I do — namely, that the Labor Zionist movement, whether willingly or unwillingly, shed the chrysalis of its socialist-class function, transforming itself into a "state" identity as it fore-went its selfish (in the best, or ideological sense of the term) concerns for overall national interests, what does this say for the future development of internal party achievements?

Secondly, what paradigmatic role is pointed for the Zionist idea and the Zionist movement, within, as well as outside of, Israel?

As of this writing, revolutionary events are cascading throughout Eastern Europe, all unanticipated and unprepared for. The suddenness of the upheavals has stunned the world, and we are all trying to sort out their meanings, present portents and future courses. One theme appears to run through all of these events: economies operating under socialist guidelines have gone bust. Marxism is revealed as a total economic failure. What does this say to Israel, functioning as it does, in large dimensions, as a socialist economy? Economic and financial realities have compelled even Labor leaders to speak in terms of "privatization of Israel's economy," away from the enervating and burdensome danger of the "Sovietization" of the economy. Socialism has deteriorated into welfare statehood, and wherever one scans the world's economic horizons, welfare states are in the throes of collapse, and this does not exclude Israel.

This development has thrust itself onto the economic consciousness of the Israeli public; it was not an altruistic gift of Labor Zionism. Reluctantly and unwillingly, this reality is being grudgingly accepted by Labor's leaders. It is no secret that Mr. Peres was compelled by his party, against his desire, to become Minister of Finance in order to cushion the impact of events upon Labor's economic institutions, Histadrut and the kibbutzim. This compulsion, in my view, replicated Ben Gurion's shift to a concept of *mamlakhtiyut* that was essentially antithetic to Labor's socialist desire to control the political direction and economic course of Israel. Simply, he saw the handwriting on the wall. What happened in 1977, when Likud came to power, was the feeling of Israeli voters that enough was enough, and that it was time for Labor to leave.

It is interesting, at this moment, to observe a subtle, yet real, shift in

Labor's political thinking, which harks back to Ben Gurion's resilience and acumen: essentially a move back to the center mainstream, a reversion to *real-politik*, which served the party in good stead in the early years of the State.

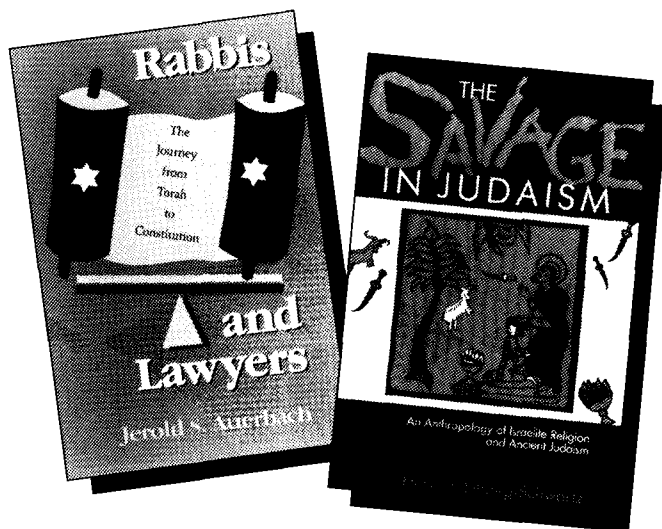
It will be fascinating to observe the efforts of both Likud and Labor as they joust for the central position in the spectrum of Israeli politics. Jet-tisoned overboard, hopefully, will be the socialist-class escutcheon of Labor on one side, and the political petulance — *à la* Jabotinsky — by Likud on the other.

Another problem, implicit in the problematics obliquely outlined by Prof. Cohen, concerns the difficult evolution of State-diaspora relations, particularly as they impinge upon the Zionist movement in its ideological, socio-cultural and spiritual aspects. I deliberately exclude the political area, which assumes two forms, the legislative parameters of public life in Israel and the military-security nature of Israeli-Arab relationships. I submit that diasporan Jewry has least to say in these areas.

However, in the areas of ideology and socio-cultural and spiritual concerns, one must grasp a third simple question to be extrapolated from Dr. Cohen's basic thesis: if the Labor movement has shed, or must shed, its class identity for the best interests of Statehood, should it analogously require the Zionist movement to divest itself of further identity, authority and organizational domains so as to provide more fruitful and "healthier" channels of diaspora-Israel relations?

Yet, the evolution of Zionist identity, as seen through the growth in the complexity and size of the Jewish State, is a critical element in current understanding. The problem can be posed simply. If, as we see the present configuration of Statehood, the narrowness of both socialist Zionism as it emerged from mid-nineteenth socialist nationalist theory, as well as Revisionist Zionism as it was grounded in the same *mise-en-scène* of nationalist political ideology, are being divested by Israel, two questions arise: is there, and should there be, a new Zionist ideological consciousness arising in Israel at all, and, if so, what is its definition? Second, how can this be related to by a diasporan Zionist (or Jew)?

Dr. Cohen has written a major historical work, possessing trenchancy of thought, sweep of dimension, elegance of style, and felicity of insight. Whether all of its predicates and presuppositions can withstand historical scrutiny remains for the judgment of further inquiry. Even its survey of very controversial subjects — e.g., its treatment of the Revisionist (Herut) development — is, in my opinion, commendably fair and equitable (particularly considering the author's ideological predilection). Its controversial, to say the least, thesis — that Labor, from as far back as the pre-state era until 1977, has periodically, out of idealism, *voluntarily* renounced ideological and political power — is powerfully argued and persuasively articulated. It is a major work of Zionist history.



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**The Iron Pillar — Mishnah: Redaction, Form and Intent.** By DOV ZLOTNICK. Jerusalem: Bialik Institute, 1988.

Reviewed by ABRAHAM GOLDBERG

THE CORNERSTONE of Pharisaic Oral Law is the Mishnah, originally entirely oral, and to this day still learned by heart by many. Over the ages, the Mishnah has probably contributed more than any other factor to the development of the Hebrew that we speak today. Moreover, the Mishnah, more than any other work in rabbinic literature, carries with it a special spiritual, even mystical fascination, being studied and read on memorial anniversaries and other occasions. For some, the Mishnah has become a personification, as it was for Joseph Karo, the compiler of the *Shulhan Arukh*. It would appear to him in his dreams, teach him, admonish him and guide him.

In our day, perhaps there is no one who has fallen more in love with the Mishnah than has Dov Zlotnick, professor of Talmud at the Jewish Theological Seminary and a disciple of the late, great, Saul Lieberman. He has immersed himself in its study, perused the traditional commentators, and, as a disciple of the great teachers of critical method, has familiarized himself with the lasting critical work on the Mishnah in our generation and before. It would be only natural to have expected that he would eventually come out with an important work on the Mishnah, as he has now.

The title of the book is taken from the succinct characterization of the Mishnah in *Leviticus Rabbah*, which tells us of the place which

the Mishnah holds in Judaism. The subtitle, "Redaction, Form and Intent," limits for us the range of the study that Zlotnick has undertaken in this particular work. Thus, we learn that this popular-scientific volume is not intended to be an all-exhaustive study of the Mishnah, or even a full introduction, but, rather, an excursus in three main areas of current scientific research. There are seventeen chapters in the book, each dealing with a particular topic. Among these may be mentioned in particular "The Editorial Activity of Rabbi," "Memory and the Integrity of the Oral Tradition," "The Scriptures and the Mishnah," and "The Mishnah a Code?"

The work is meant for the non-Hebrew reader as well as for one who reads unpointed Hebrew text easily. Quotations are copious, yet, in all cases an English translation accompanies the Hebrew in a parallel column. This popular quality in no way detracts from the special care that Zlotnick has given to scientific exactness. He is most concerned to base his remarks on solid sources of research.

Zlotnick makes use of the classic introductions of Epstein and Albeck, but he relies most heavily on Lieberman's writings, especially his *Hellenism in Jewish Palestine*. Zlotnick has also read carefully the important introductory works on Roman and other early systems of law. There is a constant comparison between the Mishnah and Roman law. In discussing the editorial activity of Rabbi (R. Judah, "The Prince," compiler of the Mishnah), he compares this with the Theodosian Code. The compilers of this Code about two centuries after the Mishnah were specifically permitted editorial judgment, and could cut down and even reshape their new compilation of the decrees of Rome issued by the emperors. Similarly, in 524

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a ten-man commission was set up to compile a new collection of imperial constitutions; and, for the Digest ordered to be compiled two years later, Justinian gave them the power to reshape the laws. Did Rabbi also “edit” or “reshape” any law? Zlotnick discusses this question at length. He points out that Rabbi, unlike compilers of the Roman codes, did not omit tractates of nonoperative law, although Zlotnick thinks that he may have corrected texts to conform to his view of the law. But this last point is highly controversial.

Zlotnick views Rabbi’s editorship as a continuation of the process of classification and clarification begun earlier, and sees a parallel in Cicero’s praise of the Greek techniques in dialectic and rhetoric of *definitio* and *divisio in genera*.

In discussing the subject of general rules in the Mishnah that are intended to cover a wide range of specific cases, Zlotnick compares this with the attitude of Roman jurists during various periods of Roman history, and especially the view held by many during the classical period that general rules may bring much harm. There is a constant comparison between the Mishnah and ancient systems of law. Yet, Zlotnick emphasizes the care that must be taken in looking for parallels. To see how different the attitudes to law in general can sometimes be, one need only point out the openness and universal study of Biblical and Oral Law as against the deliberate hiding of the laws from the public that often occurred in classical antiquity.

Zlotnick has a very interesting chapter discussing the almost universal conservatism in the making of law. Old and unchanging laws are praised in the ancient world as having passed the test of excellence, for otherwise they would have been abandoned. Josephus writes of the excellence in the laws

of Moses, “since time is reckoned as the surest test of worth” and “an infinity of time has passed since Moses.” In the ancient world, generally, there was a reluctance to make new laws or change old ones. Aristotle warned against any haste in changing laws, even if they could be improved, and held that it was better to continue a mistake in law so that the general power of law not be weakened. Philo gave as proof of the superiority of the laws of Moses that they have always remained intact. It is this reluctance to tamper with law, Zlotnick points out, which gave rise to the phenomenon of legal fictions, especially noticeable in Roman law. In rabbinic law as well, there developed a system of “novel interpretation,” which helped keep the spiritual idea of ancient Jewish law fresh in the constant change of time and situation.

In his chapter on the content and arrangement of the Mishnah, Zlotnick points out that the Mishnah is arranged in two basic ways: thematically and structurally. He tends to accept the generally held view that the original arrangement of the Mishnah was by structure and not by topic. This is an arrangement found in some ancient codes as well. Yet, today, our view of the original arrangement of the Mishnah may be changing. The *Temple Scroll* of the Qumran community is clearly a topical arrangement of what is seen to be Essene Law. And Josephus as well, it has been pointed out, discusses Jewish law in a topical arrangement. The structural parts of the Mishnah, as opposed to the topical, may indeed be a later literary development, as can be seen in many cases where earlier and later layers of the Mishnah may be identified.

Zlotnick follows those scholars who believe that Rabbi’s choice of a definite opinion of one of Rabbi Akiba’s pupils is an indication that

he intended to decide the law accordingly. Yet, when one views Rabbi's Mishnah as essentially a pedagogic presentation of Pharisaic law, this view cannot hold.

In his chapter on "Memory and the Integrity of the Oral Tradition," Zlotnick makes a very full comparison with the place of memory in that tradition and in ancient systems of law generally. Silent reading in the ancient world was rare. Both children and adults read aloud, and sing-song recitation was the norm. Some laws in the ancient systems appear in verse, and those of the Ionian law-giver, Charonadas, were actually sung. It is not surprising, therefore, that the formulation of the Mishnah was such as to make memorization easier, and it could be sung (as it still is today in the recitation of the Mishnah in several Oriental Jewish traditions). There are isolated sections of the Mishnah, especially in historical descriptions, which even seem to verge on lyric verse. Indeed, it may be that parts of the Mishnah which seem to us prosaic may be a kind of verse structure, and further findings in this regard may result from the continuous research into the literary character of the Mishnah. Zlotnick notes that the Mishnah, in both syntax and language, has a "cadence of its own, a distinctive rhythmic flow. It is a kind of free verse structured with precision, marked by continual lucidity, and begging to be memorized." It is no wonder, then, that, in some pointed manuscripts of the Mishnah, cantillation markings are also found.

The oral recitation of both Mishnah and Talmud continued for several centuries even after they came to be written down. This was a phenomenon common to the ancient world as well. Such was the case with the Homeric epics. Brahmins can still be found

today who learn more than one thousand hymns of the Rigveda by heart. The Qur'an, despite its written texts, is still handed down orally. I myself have met a Scot who could recite the rhymed Scottish translation of almost all the 150 Psalms by heart.

Yet, I think, the Pharisaic attitude to respect the absolute prohibition of writing down the Oral Law was primarily motivated by the Pharisees' devotion to the Written Law. It was only Scripture which could be written. Nor could a single letter of the Written Law be changed. This was in direct contrast to the attitudes of both the Sadducees and Essenes of the Second Temple period, each of whom had their own oral traditions which they put in writing. The Sadducees had their "Book of Decrees," while the Essenes incorporated their oral law in the very text of the Written Law, changing it to conform to Essene tradition, as we see so clearly in the Temple Scroll. It was an historic situation which helped form the Pharisaic position on the ban of writing down the Oral Law. They could distinguish their own traditions from those of the Sadducees and the Pharisees. Most important, it prevented any tampering with the sacred character of the Written Law. Indeed, it seems to be that it was this approach which helped Pharisaism gain ascendancy. So ingrained was the Pharisaic opposition to any writing down of the Oral Law, that even with the disappearance of the Sadducees and the Essenes, when the historical necessity for the prohibition was no longer there, the prohibition was still observed for a long time. Second and even some third century sages sought Scriptural support for the prohibition against writing down the Oral Law.

In the chapter on "Some Aspects of Mishnaic Repetition," Zlotnick

deals with rules found in the Mishnah which he describes as examples of *Tannaitic* abstraction. Thus, the approach of the Mishnah is in contrast to that of the jurists in the classical period of Roman Law. They made no effort to illustrate abstract principles by citing true or fictitious cases. No theoretical deduction is made from a series of cases which could so serve.

Yet, despite *Tannaitic* abstractions, which are more in the nature of legal principles which apply to a great variety of cases, the Mishnah still contains a multitude of casuistic or normative examples, all illustrating the same principle of law. The Babylonian Talmud is worried about such apparently unnecessary repetition and often attempts to show the necessity for casuistic repetition despite the general law. Where the Babylonian Talmud does not take this up, medieval authorities often do.

The general legal principles found in *Tannaitic* sources should not be confused, however, with the highly developed system of abstraction found among the later generations of Babylonian *Amoraim*. There, the prime purpose was

not to explain away casuistic repetition, but, rather, to bring as great a number of controversies as possible in a multitude of areas under one abstract heading, thus succeeding in diminishing the number of actual controversies in the Mishnah. Ten different controversies in various areas can thus be made to look like no more than a single one.

Zlotnick correctly points out that no *Amoraic* or even later authority questions the common phenomenon of a number of cases being cited in an ascending or descending order, where, indeed, the most informative example in the series makes all the other less informative ones superfluous. This is Mishnaic style. Very often, as well, the Mishnah will preface or close such a series by citing a general rule which covers all of the examples in the series.

This review is far from an exhaustive description of Zlotnick's contribution to a proper understanding of the makeup of the Mishnah, which provides an outstanding example of serious scholarship.



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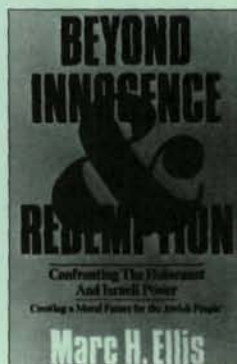
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